



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

सोमवार, 08 मार्च, 2021 / 17 फाल्गुन, 1942

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla-2, the 2nd February, 2021

No. Shram(A) 6-2/2020 (Awards) Dharamshala.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding

Officer, Labour Court Dharamshala on the website of the Department of Labour & Employment Government of Himachal Pradesh:—

Sl. No.	Ref. No.	Petitioner	Respondent	Date of Award/Order
1.	307/14	Phulla Devi	E. E. HPPWD, Joginder Nagar	17-08-2020
2.	519/15	Amro	E. E. HPPWD, Chamba	18-08-2020
3.	518/15	Des Raj	E. E. HPPWD, Chamba	19-08-2020
4.	01/18	Subhash Chand	D. F.O. Nurpur	24-08-2020
5.	120/16	Bhag Dei	E. E. HPPWD, Killar	28-08-2020
6.	373/12	Pyar Chand	E. E. HPPWD, Joginder Nagar	31-08-2020

By order,

KAMLESH KUMAR PANT, IAS
Principal Secretary (Lab. & Emp.).

IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 307/2014

Date of Institution : 26.09.2014

Date of Decision : 17.8.2020

Smt. Phulla Devi w/o Shri Gusaun Ram, r/o V.P.O. Khaddar, Tehsil Joginder Nagar, District Mandi, H.P. Petitioner

Versus

The Executive Engineer, B&R Division H.P.P.W.D. Joginder Nagar, District Mandi, H.P. . Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rajat Chaudhary, Adv. Vice

For the Respondent : Sh. Anil Sharma, Dy. D.A.

AWARD

The below given reference has been received from the appropriate Government for adjudication:

“Whether time to time termination of the services of Smt. Phulla Devi, w/o Shri Gusaun Ram, r/o V.P.O. Khaddar, Tehsil Joginder Nagar, District Mandi, H.P. during January 2000 to 31-08-2007 by the Executive Engineer, B&R Division H.P.P.W.D. Joginder Nagar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer (s)?”

2. The case of the petitioner as set out in the statement of claim is that her services were engaged by the respondent in National Highway Division, Joginder Nagar as a daily rated beldar *w.e.f.* 01.01.2000. Later on the workmen of the Division including the petitioner were absorbed in the newly created HPPWD Division, Joginder Nagar in January, 2004. The respondent had given fictional breaks to the petitioner from time to time from the date of her initial engagement upto 31.8.2007. The muster rolls were issued to the petitioner only for 15 days in a month. Some of the juniors, namely, S/Sh./Smt. Dalip Singh, Gautam Singh, Geeta Devi, Pradeep Kumar, Kishori Lal, Sanjay Kumar, Bhag Mal, Nihal Chand, Anil Kumar and Chanchal were allowed to complete 240 days in each calendar year. Some of them have been regularized by the department. The respondent had only stopped giving her fictional breaks from 1.9.2007. Since then she has completed 240 days in each calendar year and is still working with the respondent/department. The act of the respondent was wrong, illegal and against the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for short). During the period from 01.01.2000 to 31.8.2007, the petitioner had requested the respondent not to give her fictional breaks, but without success. A demand notice was then raised by her before the Labour department. She, thus, prays that she be given the benefits of seniority for the period of fictional breaks along-with back wages and be regularized with other consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objections regarding lack of maintainability, that the petition was bad for non joinder of necessary parties and also on account of delay and laches. The contents of the petition were denied on merits. It is asserted that the services of the petitioner were engaged in May, 2000. The petitioner was employed by the Executive Engineer, National Highway Division, HPPWD, Joginder Nagar. The respondent’s office was created in the month of January, 2004 vide notification dated 9th December, 2003. The office started functioning *w.e.f.* 2nd January, 2004 and after the creation of the respondent’s office, the petitioner and some other workmen were transferred to the newly created Division from the National Highway Division, Joginder Nagar. The claim of the petitioner prior to 01.1.2004 pertains to the office of the Executive Engineer, National Highway Division, Joginder Nagar, who is not a party to the case. It is denied that fictional breaks were given to the petitioner by the respondent upto 31.8.2007. Rather, the services of the petitioner were engaged as per the availability of work and funds, on her request from time to time. She had been informed at the time of her engagement that she had been engaged for 10/15/20 days and the office of the respondent was not in a position to provide her work for the whole month. The workmen whose names have been mentioned by the petitioner in the statement of claim had worked continuously and

that their services had been regularized as per the seniority and on completion of 240 days in requisite years. The petitioner was engaged at Makriri Section under Sub Division No. II, HPPWD Joginder Nagar. Hence, it was prayed that the petition be dismissed.

4. While filing the rejoinder, the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court vide order dated 07.10.2015:

1. Whether time to time termination of services of the petitioner by the respondent during the year January, 2000 to 31-08-2007 is/was illegal and unjustified as alleged? . . .*OPP*.

2. If issue No. 1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP*.

3. Whether the claim petition is not maintainable in the present form as alleged? . . .*OPP*.

4. Whether the claim petition is bad for non-joinder of necessary parties as alleged? . . .*OPP*.

5. Whether the petition is bad on account of delay and laches on the part of the applicant as alleged? . . .*OPP*.

Relief.

6. Thereafter, evidence was led by the parties to the list in support of the issues so framed.

7. Arguments of the learned vice counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : Partly yes

Issue No. 2 : Discussed

Issue No. 3 : No

Issue No. 4 : No

Issue No. 5 : No

Relief : Petition is partly allowed as per the operative portion of the Award.

REASONS FOR FINDINGS

Issues No.1 and 2 :

9. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The short and simple case of the petitioner is that the respondent had been resorting to giving fictional breaks from the very inception upto 31.8.2007, as only muster rolls for 15 days were issued to her.

11. In this regard Smt. Phulla Devi (petitioner) stepped into the witness box as PW1. She in her affidavit Ex.PW1/A submitted under Order 18 Rule 4 of the Code of Civil Procedure has deposed that the respondent had engaged her since January, 2000 on muster rolls, but they were issued only for 15 days. The said process continued till 31.8.2007.

12. Conversely, Shri B. M. Thakur, Executive Engineer, Joginder Nagar (respondent) testified as RW1. He placed on record office order as Ex. RW1/B, copy of notification as Ex.RW1/C, year-wise working days as Ex.RW1/D, year-wise mandays chart of the petitioner as Ex.RW1/E, copy of year-wise working days of ten workmen as Ex.RW1/F and copies of judgments dated 3.7.2013 and 22.11.2013 passed by the Hon'ble High Court of H.P. in CWPs No.4468 of 2013-G and 8922 of 2013 respectively, as Ex.RW1/G and Ex.RW1/H. In his cross-examination, he admitted that as per Ex.RW1/F the workmen, namely, Dalip Singh, Gautam, Geeta Devi, Pradeep Kumar, Kishori Lal, Nihal Chand and Anil Kumar are junior to the petitioner. He further admitted that they all were being provided work for full month from the dates of their initial engagement regularly. Further, he further admitted that all the above-said workers have been regularized in the year 2008.

13. There is no denial of the fact that Reference No.110/2006 titled as The General Secretary, Himshakati PWD Karamchari Sangh Jogindernagar, District Mandi, H.P. vs. The Executive Engineer, HPPWD (B&R) Division, Joginder Nagar, District Mandi, H.P. was decided by this Court/Tribunal on 2.11.2010. While deciding the said reference, it was held by this Court/Tribunal that the workmen therein were in continuous service with the respondent from their respective dates of engagement and the breaks which were given to them by the respondent being fictional in nature shall have no effect on their seniority and continuity of service. Manifest that it is not in one odd case, but in the case of a number of workmen that such procedure had been adopted by the respondent. Why, how and under what circumstances the muster rolls were issued only for 15-20 days to the workman has not been clearly spelt out by the respondent either in his pleadings or in the evidence. It is the version of the respondent that the services of the petitioner were only being engaged for 10/15/20 days for want of work and funds. There is no cogent, convincing, strong and reliable evidence on record to substantiate this plea, except for the self serving testimony of the respondent.

14. On the other hand, the mandays chart of ten workmen Ex.RW1/F shows that workmen, namely, Shri Dalip Singh was engaged in July, 2002, Shri Gautam Ram in November, 2002, Shri Pradeep Kumar and Shri Kishori Lal in January, 2004, Shri Nihal Chand in October, 2003 and Shri Anil Kumar in February, 2003. Their names figure at serial Nos. 1, 2, 4, 5, 8 and 9 in Ex.RW1/F. A perusal of Ex.RW1/F shows

that all the aforementioned workmen were being offered muster rolls for a full month. Admittedly, even these workmen are employed in B&R Division HPPWD, Joginder Nagar. The respondent while appearing as RW1 has admitted that all the above-named workmen, who were junior to the petitioner, were not given any breaks. Indisputably, the nature of job of all these workmen was similar to that of the petitioner. Why the petitioner, who admittedly was senior to the aforesaid workmen, was not granted the muster-rolls for the entire months *w.e.f.* May, 2000 upto 31.8.2007, has neither been explained nor there seems to be any plausible reason for the same. As discussed above, the reasons to that effect being obscure only go to show that the story put forth by the respondent that as adequate work and funds were not available, the petitioner was not being granted the muster-rolls for the entire months is incorrect. After August, 2007 the respondent had started giving muster roll for the entire month to the petitioner, as is evident from the substantive evidence of the petitioner. She continued working uninterruptedly but only for 15 to 20 days in a month right from her inception till 31.8.2007. Certain similarly situated persons, however, continued to be granted full muster roll. The respondent was either resorting to favouritism or acting in a partisan manner to the petitioner or was simply resorting to such process with an object of depriving her of the status and privileges of a permanent workman, entitling her to regularization as per the policy of the State Government. It is an act of gross discrimination which is *ex facie* borne out from the record. There can be no two opinions about it. Mere glance at the record highlights the glaring discrepancy and discrimination perpetuated by the respondent.

15. The aforesaid act of the respondent, as discussed above, is not only an 'unfair labour' practice as per the provisions of the Section 2(ra) of the Act, but is also against the provisions of Section 25-B of the Act, which stipulates that the workman shall be in 'continuous service', except because of an interruption on account of sickness authorized leave, accident, strike, which is illegal or lock out and the cessation of work which is not due to any fault on the part of the workman. The action of the respondent in not intentionally issuing muster roll for the entire month to the petitioner was not due to any fault of her's. The cessation of work was caused due to the arbitrary and discriminatory attitude of the respondent. Therefore, it has to be presumed that the workman *i.e.* petitioner was in 'continuous service'. She continued serving the respondent uninterruptedly from the date of her engagement. The sole inference which can be drawn from the entire circumstances as discussed above is that the action of the respondent in giving fictional breaks to the petitioner and in the process disengaging her after 15-20 days every month till 31.8.2007 was illegal and against the provisions of the Act.

16. The upshot is that the petitioner was in continuous uninterrupted service with the respondent from the date of her initial engagement. The breaks given to her by the respondent were fictional in nature and they shall have no effect on her seniority and continuity in service. Her seniority shall be reckoned from her initial date of engagement.

17. Both the issues under discussion are accordingly decided in favour of the petitioner and against the respondent.

Issue No. 3 :

18. In view of what has been held under the foregoing issues, the petition is perfectly maintainable to the extent the same relates to the relief(s) the petitioner is found

entitled to. Even otherwise, nothing has been brought to my notice by the respondent to show as to how the reference is not maintainable. The issue under discussion is accordingly decided against the respondent and in favour of the petitioner.

Issue No. 4 :

19. No arguments were addressed on this issue nor it was pressed for at the time of arguments by the learned Deputy District Attorney for the respondent. Otherwise also, from the pleadings, it cannot be said that the petition/statement of claim is bad for non-joinder of necessary parties. Then, Shri B. M. Thakur (RW1) while under cross-examination was categorical that B&R and National Highway, both are wings of the same department, *i.e.* Himachal Pradesh Public Works Department. The issue under discussion is accordingly decided against the respondent and in favour of the petitioner.

Issue No. 5 :

20. In *Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another*, (1999) 6 SCC 82, it has been observed by the Hon'ble Supreme Court that:

“The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”.

21. In view of the trite laid down in this ruling, it cannot be said that the petition is hit by the vice of delay and laches. Hence, this issue under discussion is decided in favour of the petitioner and against the respondent.

Relief :

22. As a sequel to my findings on issues above, the instant claim petition succeeds in part and the same is partly allowed. It is held that the petitioner was in continuous uninterrupted service with the respondent from the date of her engagement. The breaks given by the respondent to the petitioner from the month May, 2000 upto 31.8.2007 were artificial/fictional in nature. This period of fictional breaks is ordered to be counted for the purpose of continuous service, except back wages. Her seniority shall be reckoned from her initial date of engagement. Parties to bear their own costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 17th day of August, 2020.

Sd/-
(YOGESH JASWAL),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 519/2015

Date of Institution : 21.11.2015

Date of Decision : 18.8.2020

Shri Amro s/o Shri Sarvan, r/o Village Digar, P.O. Baat, Tehsil Chamba, District Chamba, H.P. . *Petitioner.*

Versus

The Executive Engineer, Chamba Division, H.P.P.W.D. Chamba, District Chamba, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rajat Chaudhary, Adv. Vice

For the Respondent : Sh. Anil Sharma, Dy. D.A.

AWARD

The below given reference has been received from the appropriate Government for adjudication:

“Whether the industrial dispute raised by the worker Shri Amro s/o Shri Sarvan, r/o Village Digar, P.O. Baat, Tehsil Chamba, District Chamba, H.P. before the Executive Engineer, Chamba Division, H.P.P.W.D. Chamba, District Chamba, H.P. *vide* demand notice dated nil received in the Labour Office Chamba on dated 14-05-2013 regarding his alleged illegal termination of services during September, 1999 suffers from delay and latches? If not, Whether termination of services of Shri Amro s/o Shri Sarvan, r/o Village Digar, P.O. Baat, Tehsil Chamba, District Chamba, H.P. by the Executive Engineer, Chamba Division, H.P.P.W.D. Chamba, District Chamba, H.P. during September, 1999, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to from the above employer?”

2. The case of the petitioner as it emerges from the statement of claim is that he was initially engaged as a daily waged beldar on muster roll basis, without any appointment letter, in the year 1994. He continuously worked with intermittent breaks upto October, 1999 with the respondent. Fictional breaks were given from time to time so that 240/180 days could not be completed in each calendar year. The breaks were to be counted as continuous service for the purpose of calculation of 240/180 days, as provided under Section 25-B of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for short). It is further the case of the petitioner that he had been retrenched without giving notice of retrenchment and compensation in lieu thereof. At the time of his termination, persons junior to him were retained in service by the

respondent. The respondent had not adhered to the principle of 'last come first go'. No opportunity of re-employment was ever given to the petitioner. He was never charge-sheeted for any act of indiscipline, negligence of work or misconduct. From the date of his disengagement, he is unemployed. He had approached the respondent time and again to re-engage his services, but in vain. The act and conduct of the respondent is illegal and unjustified. It is also violative of Sections 25-F, 25-G and 25-H of the Act. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objections regarding lack of maintainability and that the petition was bad on account of delay and laches. The contents of the petition were denied on merits. It was asserted that the petitioner was initially engaged in the month of March, 1995 and had worked as such upto September, 1999 intermittently. He had not completed 240 days in any calendar year. He had left the job of his own sweet will. No fictional breaks were ever given to him. He is gainfully employed as an agriculturist. Since the petitioner had not completed 240 days in any calendar year and had not fulfilled the conditions of Section 25-B of the Act, there was no need to serve any notice under Section 25-F of the Act. The respondent/department had not engaged any new workmen, as claimed by the petitioner. Neither any junior was retained nor re-engaged by the respondent. The department had regularized only those daily waged workers who had completed the required criteria of 10/8 years with 240 days in each calendar year, as per the policy of the State Government. The respondent, thus, prays for the dismissal of the claim.

4. While filing the rejoinder, the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 5.12.2016:

1. Whether the industrial dispute raised by petitioner *vide* demand notice dated nil qua his termination of service during September, 1999 by respondent suffers from the vice of delay and laches as alleged? If so, its effect? . . .*OPP.*
2. Whether termination of services of the petitioner by the respondent *w.e.f.* September, 1999 is/was improper and unjustified as alleged? . . .*OPP.*
3. If issue No. 2 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP.*
4. Whether the claim petition is not maintainable in the present form? . . .*OPR.*

Relief.

6. Thereafter, the parties to the list were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned vice counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : No

Issue No. 2 : No

Issue No. 3 : No

Issue No. 4 : No

Relief : Claim petition dismissed vide operative portion of the Award.

REASONS FOR FINDINGS

Issue No.1

9. In *Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another*, (1999) 6 SCC 82, it has been observed by the Hon'ble Supreme Court that:

“The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”.

10. In view of the trite laid down in this ruling, it cannot be said that the petition is hit by the vice of delay and laches. Hence, this issue under discussion is decided in favour of the petitioner and against the respondent.

Issues No.2 and 3 :

11. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

12. The petitioner, namely, Shri Amro examined himself as PW1 and filed his affidavit in evidence under Order 18 Rule 4 of the Code of Civil Procedure, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim.

In the cross-examination, he denied that he had not worked continuously as a daily waged beldar from October, 1995 to September, 1999 with the HPPWD Chamba in Sub-Division No. 1. He also denied that during this period, he of his own had absented from work. Volunteered that, he had worked from the year 1994 upto October, 1999. He denied that he had not worked with the department from the year 1994 to September, 1995 and in the month of October, 1999. He further denied that he had left the work after September, 1999. He also denied that the department had not engaged any junior. He owns land, which he cultivates. He admitted that he is doing the days'

drudgery privately. Self stated as and when the work is available. He denied that neither the department had given him breaks, nor had removed him from service. He denied that he is giving a phoney statement.

13. Ex.PW1/B is the copy of seniority list relating to the petitioner.

14. Ex.PW1/C is the copy of demand notice pertaining to the petitioner.

15. Ex.PW1/D is the copy of order dated 22.9.2015 passed in CWP Nos. 3851, 3852 and 3856 of 2015 by the Hon'ble High Court of Himachal Pradesh.

16. Mark-A is the copy of order dated 9.3.2015 passed by the Hon'ble High Court of H.P. in CWP No.674 of 2014.

17. Mark-B1 to B11 are the copies of seniority lists of various daily waged beldars working in Sub Divisions I and II of HPPWD Chamba.

18. Mark-C is the copy of order dated 9.3.2015 passed by the Hon'ble High Court of H.P. in CWP No. 1522 of 2015.

19. Mark-D is the copy of Award dated 1.8.2012 passed by this Tribunal in Reference No.270 of 2010.

20. Conversely, Shri J. S. Thakur, Executive Engineer, HPPWD Chamba, District Chamba, H.P. (respondent) testified as RW1. He corroborated on oath the contents of the reply filed by him. He also stated that the petitioner had served as a daily waged beldar from March, 1995 to September, 1999.

In the cross-examination, he admitted that the petitioner had worked as a daily waged beldar in the department. He also admitted that no appointment letter had ever been issued to him (petitioner) at the time of his engagement. He denied that the department had removed the petitioner from work. He admitted that no departmental inquiry had been initiated against the petitioner during the period of his work. He also admitted that as per the record the petitioner had not been called back to work. Volunteered that, he himself had left the work. He admitted that as per the record neither any notice nor any compensation had been given to the petitioner by the department. He denied that new/fresh hands have been kept by the department after removing the petitioner from work. He also denied that the petitioner had completed 240 days or more in each year. He admitted that the petitioner had worked on muster roll.

21. Ex.RW1/A is the copy of mandays chart relating to the petitioner.

22. From the statement made by the respondent (RW1), it can be gathered that the petitioner had worked intermittently as a daily waged beldar with the department *w.e.f.* March, 1995 to September, 1999. The version of the petitioner is that his services were wrongly and illegally terminated by the respondent in the month of September, 1999. While denying the said fact, the respondent has pleaded that the petitioner had left the job of his own free will and volition in the month of September, 1999.

23. The first and foremost point which comes to the fore for determination is whether the petitioner had been disengaged from service or he himself had abandoned the job.

24. It is well known that abandonment has to be proved by the employer like any other fact. Therefore, the burden of proving of abandonment is upon the respondent. It has been laid down by our own Hon'ble High Court in case titled as *Narain Singh vs. The State of Himachal Pradesh & Ors.*, 2016 (3) Him L.R. 1875 that voluntarily abandonment of work by a workman is required to be established by way of cogent and reliable evidence by the employer. Similarly, in case titled as *State of Himachal Pradesh & another vs. Shri Partap Singh*, 2017 (1) Him L.R. 286, it has been held by our own Hon'ble High Court that abandonment is not to be lightly presumed, but it has to be unequivocally proved by the employer. Simply because a workman fails to report for duty, it cannot be presumed that he has left/abandoned the job. Mere statement of Shri J.S. Thakur, (RW1) alleging that the workman had abandoned the services is entirely insufficient to discharge the said onus. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. Absence from duty is a serious misconduct and the principle of natural justice did require that some sort of a fact finding inquiry was got conducted by the respondent. In the present case as it emerges from the evidence on record, so was not done by the respondent. Then, 'animus' to abandon, it is well settled, must necessarily be shown to exist, before a case of abandonment can be said to have been made out. No evidence of any such 'animus' on the part of the petitioner is forthcoming in the present case. Thus, the plea of abandonment put forth by the respondent/employer is not established.

25. It was contended by the learned counsel for the respondent that the petitioner had not worked for 240 days or more in a year preceding twelve calendar months from the date of his alleged termination, therefore, the petitioner cannot claim any protection under the provisions of the Act. The case of the petitioner is that he had worked for more than 240 days in a year, the purported order of retrenchment is illegal, as the conditions precedent as contained in Section 25-F of the Act were not complied with.

26. Section 25-B of the Act defines "continuous service". In terms of Sub Section (2) of Section 25-B that if a workman during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. The burden of proof is on the petitioner to show that he had worked for 240 days in the preceding twelve calendar months prior to his alleged retrenchment. The law on this issue is well settled. In *R. M. Yellatty vs. Assistant Executive Engineer*, (2006) 1 SCC 106, it has been laid by the Hon'ble Supreme Court that the burden of proof is on the claimant to show that he had worked for 240 days in a given year.

27. Applying the principles laid down in the above case by the Hon'ble Supreme Court, it was required of the petitioner to establish on record that he had worked continuously for a period 240 days in a block of twelve calendar months anterior to the date of his alleged termination, which as per the reference took place in the month of September, 1999. From the copy of detail of working days of the petitioner, which is there on the file as Ex.PW1/B (also Ex.RW1/A), it becomes abundantly clear that the petitioner had not completed 240 days of continuous work in a block of twelve calendar months preceding the date/month of his retrenchment *i.e.* September, 1999, as envisaged under Section 25-B of the Act. Therefore, the provisions of Section 25-F of the Act are not attracted in this case.

28. The principle of "last come first go" is envisaged under Section 25G of the Act. The said Section provides:

“25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and she belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman”.

29. It is claimed by the petitioner that at the time of termination of his services, persons junior to him were retained in service by the respondent. No detail of such persons has been given in the statement of claim by the petitioner nor it has been so stated by him in his sworn testimony (PW1) before this Tribunal. The respondent has refuted such allegations and claimed that no person junior to the petitioner had ever been retained in service by the department. Significantly, no seniority list has been placed and exhibited on record nor any other witness examined by the petitioner so as to show that persons junior to him had been retained by the respondent at the time of the termination of his services. Mark-B1 to Mark-B11 the copies of seniority lists of daily waged beldars working in Sub Divisions No. I and II of HPPWD Chamba go to show that all the daily wagers named therein were senior to the petitioner, they all having been engaged in the year 1994, whereas the petitioner had initially been engaged in the year 1995. Therefore, it cannot be said that the respondent had violated the principle of ‘last come first go’, as envisaged in Section 25-G of the Act.

30. The petitioner’s allegation that the respondent had violated the provisions of Section 25-H of the Act as well, to my mind, also does not appear to have been substantiated. The petitioner’s statement of claim is non-existent in the names of the persons who were allegedly appointed by the respondent after his retrenchment. There is also no ocular evidence in this regard on the file. The material on record, thus, being too scanty and nebulous to lend assurance to his allegation that new workers were appointed after the termination of his services, the respondent cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

31. In view of the discussion and findings aforesaid, the petitioner is held to be not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondent.

Issue No. 4 :

32. It has not been shown by the respondent as to how the present petition/statement of claim is not maintainable. Moreover, this issue was not pressed for by the learned Deputy District Attorney appearing for the respondent at the time of arguments. Otherwise also, from the pleadings, it cannot be said that the petition/statement of claim is not maintainable. Hence, this issue is decided in favour of the petitioner and against the respondent.

Relief:

33. In the light of what has been discussed hereinabove, while recording the findings on issues *supra*, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 18th day of August, 2020.

Sd/-
(YOGESH JASWAL),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 518/2015

Date of Institution : 21.11.2015

Date of Decision : 19.8.2020

Shri Des Raj s/o Shri Prabhu, r/o Village Digar, P.O. Baat, Tehsil Chamba,
District Chamba, H.P. . *Petitioner.*

Versus

The Executive Engineer, Chamba Division, H.P.P.W.D. Chamba, District
Chamba, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rajat Chaudhary, Adv. Vice

For the Respondent : Sh. Anil Sharma, Dy. D.A.

AWARD

The below given reference has been received from the appropriate Government for adjudication:

“Whether the industrial dispute raised by the worker Shri Des Raj s/o Shri Prabhu, r/o Village Digar, P.O. Baat, Tehsil Chamba, District Chamba, H.P. before the Executive Engineer, Chamba Division, H.P.P.W.D. Chamba, District Chamba, H.P. vide demand notice dated nil received in the Labour Office Chamba on dated 14-05-2013 regarding his alleged illegal termination of services during April, 2000 suffers from delay and latches? If not, whether termination of services of Shri Des Raj s/o Shri Prabhu, r/o Village Digar, P.O. Baat, Tehsil Chamba, District Chamba, H.P. by the Executive Engineer, Chamba Division, H.P.P.W.D. Chamba, District Chamba, H.P. during April, 2000, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to from the above employer?”

2. The case of the petitioner as it emerges from the statement of claim is that he was initially engaged as a daily waged beldar on muster roll basis, without any appointment letter, in the year 1994. He continuously worked with intermittent breaks upto October, 2004 with the respondent. Fictional breaks were given from time to time so that 240/180 days could not be completed in each calendar year. The breaks were to be counted as continuous service for the purpose of calculation of 240/180 days, as provided under Section 25-B of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). It is further the case of the petitioner that he had been retrenched without giving notice of retrenchment and compensation in lieu thereof. At the time of his termination, persons junior to him were retained in service by the respondent. The respondent had not adhered to the principle of 'last come first go'. No opportunity of re-employment was ever given to the petitioner. He was never charge-sheeted for any act of indiscipline, negligence of work or misconduct. From the date of his disengagement, he is unemployed. He had approached the respondent time and again to re-engage his services, but in vain. The act and conduct of the respondent is illegal and unjustified. It is also violative of Sections 25-F, 25-G and 25-H of the Act. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objections regarding lack of maintainability and that the petition was bad on account of delay and laches. The contents of the petition were denied on merits. It was asserted that the petitioner was initially engaged in the month of March, 1995 and had worked as such upto April, 2000 intermittently. He had not completed 240 days in any calendar year. He had left the job of his own sweet will. No fictional breaks were ever given to him. He is gainfully employed as an agriculturist. Since the petitioner had not completed 240 days in any calendar year and had not fulfilled the conditions of Section 25-B of the Act, there was no need to serve any notice under Section 25-F of the Act. The respondent/department had not engaged any new workmen, as claimed by the petitioner. Neither any junior was retained nor re-engaged by the respondent. The department had regularized only those daily waged workers who had completed the required criteria of 10/8 years with 240 days in each calendar year, as per the policy of the State Government. The respondent, thus, prays for the dismissal of the claim.

4. While filing the rejoinder, the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court vide order dated 5.12.2016:

1. Whether the industrial dispute raised by petitioner *vide* demand notice dated nil qua his termination of service during April, 2000 by respondent suffers from the vice of delay and laches as alleged? If so, its effect? . . . *OPP*.
2. Whether termination of services of the petitioner by the respondent *w.e.f.* April, 2000 is/was improper and unjustified? . . . *OPP*.
3. If issue No. 2 is proved in affirmative, to what service benefits the petitioner is entitled to? . . . *OPP*.
4. Whether the petition is not maintainable in the present form? . . . *OPR*.

Relief.

6. Thereafter, the parties to the lis were directed to adduce evidence in support of the issues so framed.

7. Arguments of the learned vice counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : No

Issue No. 2 : No

Issue No. 3 : No

Issue No. 4 : No

Relief : Claim petition dismissed vide operative portion of the Award.

REASONS FOR FINDINGS

Issue No. 1 :

9. In *Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another*, (1999) 6 SCC 82, it has been observed by the Hon'ble Supreme Court that:

“The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”.

10. In view of the trite laid down in this ruling, it cannot be said that the petition is hit by the vice of delay and laches. Hence, this issue under discussion is decided in favour of the petitioner and against the respondent.

Issues No. 2 and 3 :

11. Both these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

12. The petitioner, namely, Shri Des Raj examined himself as PW1 and filed his affidavit in evidence under Order 18 Rule 4 of the Code of Civil Procedure, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim.

In the cross-examination, he denied that he had not worked continuously as a daily waged beldar from March, 1995 to April, 2000 with the HPPWD Chamba in Sub Division No. 1. He also denied that during this period, he of his own had absented

from work. Volunteered that, he had worked from March, 1994 upto October, 2004. He denied that he had not worked with the department from March, 1994 to February, 1995 and from May 2000 upto October, 2004. He further denied that he had left the work after April, 2000. He also denied that the department had not engaged any junior. He owns land, which he cultivates. He admitted that he is doing the days' drudgery privately. Self stated as and when the work is available. He denied that neither the department had given him breaks, nor had removed him from service. He denied that he is giving a phoney statement.

13. Ex.PW1/B is the copy of seniority list relating to the petitioner.

14. Ex.PW1/C is the copy of demand notice pertaining to the petitioner.

15. Ex.PW1/D is the copy of order dated 22.9.2015 passed in CWP Nos. 3851, 3852 and 3856 of 2015 by the Hon'ble High Court of Himachal Pradesh.

16. Mark-A is the copy of order dated 9.3.2015 passed by the Hon'ble High Court of H.P. in CWP No.674 of 2014.

17. Mark-B1 to B11 are the copies of seniority lists of various daily waged beldars working in Sub Divisions I and II of HPPWD Chamba.

18. Mark-C is the copy of order dated 9.3.2015 passed by the Hon'ble High Court of H.P. in CWP No. 1522 of 2015.

19. Mark-D is the copy of Award dated 1.8.2012 passed by this Tribunal in Reference No.270 of 2010.

20. Conversely, Shri J.S. Thakur, Executive Engineer, HPPWD Chamba, District Chamba, H.P. (respondent) testified as RW1. He corroborated on oath the contents of the reply filed by him. He also stated that the petitioner had served as a daily waged beldar from March, 1995 to April, 2000.

In the cross-examination, he admitted that the petitioner had worked as a daily waged beldar in the department. He also admitted that no appointment letter had ever been issued to him (petitioner) at the time of his engagement. He denied that the department had removed the petitioner from work. He admitted that no departmental inquiry had been initiated against the petitioner during the period of his work. He also admitted that as per the record the petitioner had not been called back to work. Volunteered that, he himself had left the work. He admitted that as per the record neither any notice nor any compensation had been given to the petitioner by the department. He denied that new/fresh hands have been kept by the department after removing the petitioner from work. He also denied that the petitioner had completed 240 days or more in each year. He admitted that the petitioner had worked on muster roll.

21. Ex.RW1/A is the copy of mandays chart relating to the petitioner.

22. From the statement made by the respondent (RW1), it can be gathered that the petitioner had worked intermittently as a daily waged beldar with the department *w.e.f.* March, 1995 to April, 2000. The version of the petitioner is that his services were wrongly and illegally terminated by the respondent in the month of October, 2004.

While denying the said fact, the respondent has pleaded that the petitioner had left the job of his own free will and volition in the month of April, 2000.

23. The first and foremost point which comes to the fore for determination is whether the petitioner had been disengaged from service or he himself had abandoned the job.

24. It is well known that abandonment has to be proved by the employer like any other fact. Therefore, the burden of proving of abandonment is upon the respondent. It has been laid down by our own Hon'ble High Court in case titled as *Narain Singh vs. The State of Himachal Pradesh & Ors.*, 2016 (3) Him L.R. 1875 that voluntarily abandonment of work by a workman is required to be established by way of cogent and reliable evidence by the employer. Similarly, in case titled as *State of Himachal Pradesh & another vs. Shri Partap Singh*, 2017 (1) Him L.R. 286, it has been held by our own Hon'ble High Court that abandonment is not to be lightly presumed, but it has to be unequivocally proved by the employer. Simply because a workman fails to report for duty, it cannot be presumed that he has left/abandoned the job. Mere statement of Shri J.S. Thakur, (RW1) alleging that the workman had abandoned the services is entirely insufficient to discharge the said onus. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. Absence from duty is a serious misconduct and the principle of natural justice did require that some sort of a fact finding inquiry was got conducted by the respondent. In the present case as it emerges from the evidence on record, so was not done by the respondent. Then, 'animus' to abandon, it is well settled, must necessarily be shown to exist, before a case of abandonment can be said to have been made out. No evidence of any such 'animus' on the part of the petitioner is forthcoming in the present case. Thus, the plea of abandonment put forth by the respondent/employer is not established.

25. It was contended by the learned counsel for the respondent that the petitioner had not worked for 240 days or more in a year preceding twelve calendar months from the date of his alleged termination, therefore, the petitioner cannot claim any protection under the provisions of the Act. The case of the petitioner is that he had worked for more than 240 days in a year, the purported order of retrenchment is illegal, as the conditions precedent as contained in Section 25-F of the Act were not complied with.

26. Section 25-B of the Act defines "continuous service". In terms of Sub Section (2) of Section 25-B that if a workman during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. The burden of proof is on the petitioner to show that he had worked for 240 days in the preceding twelve calendar months prior to his alleged retrenchment. The law on this issue is well settled. *In R. M. Yellatty vs. Assistant Executive Engineer*, (2006) 1 SCC 106, it has been laid by the Hon'ble Supreme Court that the burden of proof is on the claimant to show that he had worked for 240 days in a given year.

27. Applying the principles laid down in the above case by the Hon'ble Supreme Court, it was required of the petitioner to establish on record that he had worked continuously for a period 240 days in a block of twelve calendar months anterior to the date of his alleged termination, which as per the reference took place in the month

of April, 2000. From the copy of detail of working days of the petitioner, which is there on the file as Ex.PW1/A (also Ex.RW1/A), it becomes abundantly clear that the petitioner had not completed 240 days of continuous work in a block of twelve calendar months preceding the date/month of his retrenchment *i.e.* April, 2000, as envisaged under Section 25-B of the Act. Therefore, the provisions of Section 25-F of the Act are not attracted in this case.

28. The principle of “last come first go” is envisaged under Section 25G of the Act. The said Section provides:

“25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and she belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman”.

29. It is claimed by the petitioner that at the time of termination of his services, persons junior to him were retained in service by the respondent. No detail of such persons has been given in the statement of claim by the petitioner nor it has been so stated by him in his sworn testimony (PW1) before this Tribunal. The respondent has refuted such allegations and claimed that no person junior to the petitioner had ever been retained in service by the department. Significantly, no seniority list has been placed and exhibited on record nor any other witness examined by the petitioner so as to show that persons junior to him had been retained by the respondent at the time of the termination of his services. Mark-B1 to Mark-B11 the copies of seniority lists of daily waged beldars working in Sub Divisions No. I and II of HPPWD Chamba go to show that all the daily wagers named therein were senior to the petitioner, they all having been engaged in the year 1994, whereas the petitioner had initially been engaged in the year 1995. Therefore, it cannot be said that the respondent had violated the principle of ‘last come first go’, as envisaged in Section 25- G of the Act.

30. The petitioner’s allegation that the respondent had violated the provisions of Section 25-H of the Act as well, to my mind, also does not appear to have been substantiated. The petitioner’s statement of claim is non-existent in the names of the persons who were allegedly appointed by the respondent after his retrenchment. There is also no ocular evidence in this regard on the file. The material on record, thus, being too scanty and nebulous to lend assurance to his allegation that new workers were appointed after the termination of his services, the respondent cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

31. In view of the discussion and findings aforesaid, the petitioner is held to be not entitled to any relief. Hence, both these issues are decided against the petitioner and in favour of the respondent.

Issue No. 4 :

32. It has not been shown by the respondent as to how the present petition/statement of claim is not maintainable. Moreover, this issue was not pressed for by the learned Deputy District Attorney appearing for the respondent at the time of arguments. Otherwise also, from the pleadings, it cannot be said that the petition/statement of claim is not maintainable. Hence, this issue is decided in favour of the petitioner and against the respondent.

Relief:

33. In the light of what has been discussed hereinabove, while recording the findings on issues supra, the present claim petition merits dismissal and is accordingly dismissed, with no order as to costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 19th day of August, 2020.

Sd/-
(YOGESH JASWAL),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 01/2018
Date of Institution : 19.02.2018
Date of Decision : 24.8.2020

Shri Subhash Chand s/o Shri Rasil Singh, r/o Village Kalduan, P.O. & Tehsil
Jawali, District Kangra, H.P. . *Petitioner.*

Versus

The Divisional Forest Officer, Forest Division, Nurpur, District Kangra, H.P.
. *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rajat Chaudhary, Adv. Vice
For the Respondent : Sh. Anil Sharma, Dy. D.A.

AWARD

The below given reference has been received from the appropriate Government for adjudication:

“Whether time to time termination of the services of Shri Subhash Chand s/o Shri Rasil Singh, r/o Village Kalduan, P.O. & Tehsil Jawali, District Kangra, H.P. during November, 1999 to August, 2008 and finally during September, 2008 as alleged by the

claimant *vide* demand notice dated 17-12-2011 by the Divisional Forest Officer, Forest Division Nurpur, District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/ Management?"

2. The case of the petitioner as set out in the statement of claim is that his services were engaged by the respondent as a daily waged forest worker on muster roll *w.e.f.* June, 1999. He had worked as such under Range Forest Officer, Jawali upto April, 2001. The respondent had given fictional breaks to the petitioner from time to time from the date of his initial engagement upto August, 2008. Fictional breaks were given to him so that he could not complete 240 days or more for the purpose of continuous service as required under Section 25-B of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short). His services were finally terminated in the month of September, 2008. No show cause notice was issued to him nor any inquiry got conducted. He was also not paid one month's pay in lieu of the notice period, as well as retrenchment compensation. Persons junior to him, namely, S/Sh. Sanjeev Kumar, Shiv Karan, Onkar Singh, Sonki Ram, Dhaminder Kumar, Raman Kumar and Har Charan were retained regularly, without any breaks. New/fresh hands were also engaged by the department at Division level from the year 2002 upto the year 2008. The petitioner had approached the respondent/department with regard to his re-engagement along-with Shri Jugal Kishore, who was also terminated by Range Officer, Jawali, but of no avail. The petitioner issued demand notice on 12.3.2008. His services were re-engaged in the month of August, 2008, but the respondent had only provided him muster-roll upto September, 2008. Thereafter his services were again disengaged by the department. The services of Shri Jugal Kishore have been regularized and who at present is working as a regular Class-IV employee. The services of the petitioner were illegally, arbitrarily and unconstitutionally terminated from time to time *w.e.f.* June, 1999 upto August, 2008, which are against the mandatory provisions of Sections 25-F, 25-G and 25-H of the Act. The petitioner, thus, prays for his re-engagement with all consequential benefits.

3. On notice, the respondent appeared. She filed a reply taking preliminary objections regarding lack of maintainability and that the petition was bad on the ground of delay and laches. The contents of the petition were denied on merits. It is admitted that the petitioner was engaged as a daily waged worker on muster roll basis in the month of June, 1999 in Jawali Forest Range. However, it is asserted that he had worked intermittently upto October, 2002 and thereafter had left the work of his own sweet will. The petitioner thereafter had also worked with the respondent for 16 and 29 days respectively on bill basis in the months of August & September, 2008. He had worked intermittently *w.e.f.* June, 1999 upto September, 2008. Since he had not completed 240 days in the preceding twelve calendar months, as required under Section 25-B of the Act, there was no need to serve any notice under Section 25-F of the Act. His services had never been retrenched by the respondent, so there was no need to pay any retrenchment compensation to him. Persons mentioned in para No. 2 of the claim petition except Sh. Sonki Ram had been continuously working with the respondent/department and they had completed 240 days in a calendar year and their services have been regularized as per the regularization policy of the Government. As per the record, the services of Shri Sonki Ram had never been engaged in the Division. It is denied that as the services of the petitioner had been engaged and disengaged from time to time, so he could not complete 240 days in each calendar year for the purpose of regularization of his services.

The respondent/department had not violated any of the provisions of the Act. His demand notice had been considered and the same was termed as prima-facie, vexatious and frivolous by the Labour Commissioner, Himachal Pradesh. The petitioner had worked only for 45 days in the year 2008 on seasonal forestry operations which was on casual basis like other casual labourers employed for seasonal work. Case of Shri Jugal Kishore was different and he had been considered on the basis of the judgment dated 21.6.2013 passed by this Tribunal. As per the record, he was senior to the petitioner. Since the department had never terminated the services of the petitioner, the question of issuing charge-sheet or making any inquiry against him did not arise. The petitioner had not completed 240 days in each calendar year and that no junior to him was engaged by the respondent. The respondent/department has not violated the provisions of Sections 25-F, 25-G and 25-H of the Act. The petitioner was gainfully employed, being an agriculturist. Hence, it was prayed that the claim petition be dismissed.

4. While filing the rejoinder, the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court *vide* order dated 22.01.2019:

1. Whether time to time termination of services of the petitioner by the respondent during November, 1999 to August, 2008 is illegal and unjustified, as alleged? . . .*OPP.*
2. Whether final termination of services of petitioner during September, 2008 is illegal and unjustified, as alleged? . . .*OPP.*
3. If issue No. 1 or issue No. 2 or both are proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP.*
4. Whether the claim petition is not maintainable in the present form as alleged? . . .*OPR.*
5. Whether the claim petition is bad on account of delay and laches as alleged? . . .*OPR.*

Relief.

6. Thereafter, evidence was led by the parties to the lis in support of the issues so framed.

7. Arguments of the learned counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

8. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

- | | |
|-------------|---|
| Issue No. 1 | : Not pressed |
| Issue No. 2 | : Yes |
| Issue No. 3 | : Re-engagement with seniority and continuity in service from September, 2008, except for back wages. |

Issue No.4 : No

Issue No.5 : No

Relief : Petition is partly allowed as per the operative part of the Award.

REASONS FOR FINDINGS

Issues No. 1 to 3 :

9. All these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

10. The petitioner, namely, Shri Subhash Chand examined himself as PW1 and filed his affidavit in evidence, which is exhibited as Ex. PW1/A. In his affidavit, he reiterated the contents of his statement of claim. He also filed certain documents purportedly in support of his claim which are exhibited as Ex. PW1/B to Ex. PW1/K.

In the cross-examination, he denied that he had worked in the department from the year 1999 upto the year 2002 intermittently. Volunteered that, he had worked continuously. He also denied that he had worked for 16 days and 29 days on bill basis in the months of August & September, 2008 respectively. Self stated that he had worked on muster rolls. He denied that thereafter he had left the work of his own. He also denied that he had not worked for 240 days from June, 1999 to September, 2008. Further, he denied that no worker junior to him is in service and that as per the policy of the Government, other workers have been kept at work. He also denied that seasonal work is done in the department. He admitted that he earns his livelihood by doing agricultural works. He specifically denied that he is making a phoney statement.

11. Conversely, Smt. Basu Kaushal, Divisional Forest Officer, Nurpur (respondent) testified as RW1. In her affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, she corroborated on oath the contents of the reply filed by her.

In the cross-examination, she denied that the petitioner was engaged as a daily wager on muster roll in the month of June, 1999. She also denied that the petitioner had worked as such till April, 2001. Further, she denied that thereafter he had been removed from service. Volunteered that, he was kept as a seasonal worker at work in the month of June, 1999 and that he had left the work of his own sweet will. She admitted that the petitioner was re-engaged in the month of August, 2008. Self stated that, he was engaged as a seasonal worker only for 45 days. She feigned ignorance that any appointment letter had been issued to the petitioner. Ex. RW1/B is attested by her. She admitted that the workers shown in Ex. RW1/C were kept at work in the years 2000-2001. She further admitted that the workers shown in Ex. RW1/C have worked for 240 days to 366 days. She also admitted that the workers shown in Ex. RW1/C have worked on muster roll basis.

12. Ex. RW1/B is the copy of the month-wise mandays chart relating to the petitioner.

13. Ex. RW1/C is the copy of mandays chart of the labourers from the year 2000 upto 2016.

14. Ex.RW1/D is the copy of letter dated 12th November, 2010 sent to the petitioner by the Labour Commissioner, Himachal Pradesh regarding demand notice and report under Section 12(4) of the Act.

15. Be it recorded here at the very outset that at the time of arguments the learned counsel for the claimant/petitioner had not pressed the claim regarding giving fictional breaks to the petitioner time and again from the month of November, 1999 to the month of August, 2008, as per the reference. That being so, this Court is only required to decide as to whether the final termination of the services of the petitioner allegedly ordered by the respondent in the month of September, 2008 is was legal and valid or not?

16. It is the admitted case of the parties that the services of the petitioner were engaged as a daily wager. The mandays chart Ex. RW1/B unfolds that the petitioner was initially employed in the month of June, 1999 by the respondent. The defence of the respondent is that the petitioner was engaged for seasonal work, as and when available with the respondent and subject to availability of budget. However, the respondent has not placed on the file any document evidencing that the petitioner was employed for seasonal forestry works subject to the availability of funds and the work. Moreover, the mandays chart Ex.RW1/B reveals that in the year 2000, the petitioner had worked for 293 days with the respondent/department. A person working for 293 days in a year cannot be termed as a seasonal worker. Even otherwise, it is nowhere the plea taken by the respondent nor there is any iota of evidence on record to show that the forest department has been declared as a seasonal industry, as required under the law. It is also the version of the respondent that in the months of August and September, 2008 the petitioner had worked on bill basis. There is no such evidence on record to substantiate this plea of the respondent.

17. The version of the petitioner is that his services were wrongly and illegally terminated by the respondent in the month of September, 2008. While denying the said fact, the respondent has pleaded that the petitioner had left the job of his own free will and volition.

18. The first and foremost point which comes to the fore for determination is whether the petitioner had been disengaged from service or he himself had abandoned the job?

19. It is well known that abandonment has to be proved by the employer like any other fact. Therefore, the burden of proving of abandonment is upon the respondent. It has been laid down by our own Hon'ble High Court in case titled as *Narain Singh vs. The State of Himachal Pradesh & Ors.*, 2016 (3) Him L.R. 1875 that voluntarily abandonment of work by a workman is required to be established by way of cogent and reliable evidence by the employer. Similarly, in case titled as *State of Himachal Pradesh & another vs. Shri Partap Singh*, 2017 (1) Him L.R. 286, it has been held by our own Hon'ble High Court that abandonment is not to be lightly presumed, but it has to be unequivocally proved by the employer. Simply because a workman fails to report for duty, it cannot be presumed that he has left/abandoned the job. Mere statement of Smt. Basu Kaushal, (RW1) alleging that the workman had abandoned the services is entirely insufficient to discharge the said onus. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for his alleged willful absence from duty. Absence from duty is a serious misconduct and the principle of natural justice did require that some sort of a fact finding inquiry was got conducted by

the respondent. In the present case as it emerges from the evidence on record, so was not done by the respondent. Then, 'animus' to abandon, it is well settled, must necessarily be shown to exist, before a case of abandonment can be said to have been made out. No evidence of any such 'animus' on the part of the petitioner is forthcoming in the present case. Thus, the plea of abandonment put forth by the respondent/employer is not established.

20. It was contended by the learned counsel for the respondent that the petitioner had not worked for 240 days or more in a year preceding twelve calendar months from the date of his alleged termination, therefore, the petitioner cannot claim any protection under the provisions of the Act. The case of the petitioner is that he had worked for more than 240 days in a year, the purported order of retrenchment is illegal, as the conditions precedent as contained in Section 25-F of the Act were not complied with.

21. Section 25-B of the Act defines "continuous service". In terms of Sub Section (2) of Section 25-B that if a workman during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer 240 days within a period of one year, he will be deemed to be in continuous service. The burden of proof is on the petitioner to show that he had worked for 240 days in the preceding twelve calendar months prior to his alleged retrenchment. The law on this issue is well settled. In *R. M. Yellatty vs. Assistant Executive Engineer, (2006) 1 SCC 106*, it has been laid by the Hon'ble Supreme Court that the burden of proof is on the claimant to show that he had worked for 240 days in a given year.

22. Applying the principles laid down in the above case by the Hon'ble Supreme Court, it was required of the petitioner to establish on record that he had worked continuously for a period 240 days in a block of twelve calendar months anterior to the date of his alleged termination, which as per the reference took place in the month of September, 2008. From the copy of month-wise mandays of the petitioner, which is there on the file as Ex.RW1/B, it becomes abundantly clear that the petitioner had not completed 240 days of continuous work in a block of twelve calendar months preceding the date/month of his retrenchment *i.e.* September, 2008, as envisaged under Section 25-B of the Act. Therefore, the provisions of Section 25-F of the Act are not attracted in this case.

23. The principle of "last come first go" is envisaged under Section 25G of the Act. The said Section provides:

"25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and she belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman".

24. It is claimed by the petitioner that at the time of termination of his services, persons junior to him were retained in service by the respondent. Ex.RW1/C is the copy of mandays chart of the labourers working under the respondent from the year 2000 upto the year 2016. The respondent (RW1) in her cross-examination clearly

admitted that all the workers shown in Ex.RW1/C were engaged in the years 2000-2001. She also admitted that all these workers had worked with the petitioner on muster-roll basis. A perusal of Ex.RW1/C, which is an admitted document on the part of the respondent, reveals that workmen, namely, Shri Sanjeev Kumar, Shri Onkar Chand and Shri Subhkaran were appointed by the respondent/department in the year 2000, whereas the services of Shri Raman, Shri Harcharan Singh and Shri Dharvninder Singh were engaged in the year 2001. At the cost of reiteration, I will like to add that the month of initial appointment of the petitioner as per Ex.RW1/B is June, 1999 and that as per the reference his services were terminated by the respondent in the month of September, 2008. This indicates that all the workers shown in Ex.RW1/C, who were juniors to the petitioner were still serving the respondent/department when the petitioner was retrenched. Therefore, the latter had failed to adhere to the principle of 'last come first go'. Retaining juniors at the cost of senior is nothing but unfair labour practice. The same is violative of Section 25-G of the Act.

25. Since, the provisions of Section 25-G of the Act have been contravened, it was not obligatory for the petitioner to have completed 240 days in a block of twelve calendar months preceding termination to derive benefit under this Section of the Act. For taking this view, I am guided by the judgment rendered by our own Hon'ble High Court in case titled as *State of Himachal Pradesh & Anr. vs. Shri Partap Singh, 2017 (1) Him L.R. 286*.

26. The petitioner's allegation that the respondent had violated the provisions of Section 25-H of the Act as well, to my mind, does not appear to have been substantiated. The petitioner's statement of claim is non-existent in the names of the persons who were allegedly appointed by the respondent after his retrenchment. There is also no ocular evidence in this regard on the file. The material on record, thus, being too scanty and nebulous to lend assurance to his allegation that new workers were appointed after the termination of his services, the respondent cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

27. It is, thus, held that the final termination of the services of the petitioner by the respondent in the month of September, 2008 is illegal and unjustified and is accordingly set aside and quashed. The respondent is directed to reinstate the petitioner forthwith. His (petitioner's) seniority shall be reckoned from the month of his illegal termination *i.e.* September, 2008. Issues No. 2 and 3 are decided accordingly, while issue No.1 is decided as not pressed.

Issue No. 4 :

28. It has not been shown by the respondent as to how the present petition/statement of claim is not maintainable. Moreover, this issue was not pressed for by the learned Deputy District Attorney appearing for the respondent at the time of arguments. Otherwise also, from the pleadings, it cannot be said that the petition/statement of claim is not maintainable. Hence, this issue is decided in favour of the petitioner and against the respondent.

Issue No. 5 :

29. In *Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another, (1999) 6 SCC 82*, it has been observed by the Hon'ble Supreme Court that:

"The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied

merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”.

30. In view of the trite laid down in this ruling, it cannot be said that the petition is hit by the vice of delay and laches.

31. During the cross-examination, the petitioner (PW1) admitted that he earns his livelihood by doing agricultural works. While testifying in the Court as PW1, the petitioner has given his age as 48 years. It is common knowledge that a person of this age will not sit at home idle during the period he is/was out of the service. The petitioner has failed to discharge the initial onus that during the period of his forced idleness, he was not gainfully employed. For these reasons, he is not entitled to the back wages.

32. This issue is accordingly decided in favour of the petitioner and against the respondent.

Relief:

33. For all the aforesaid reasons discussed above it is, thus, held that the retrenchment of the petitioner is set aside and quashed. The respondent is hereby directed to re-engage the petitioner forthwith. His seniority shall be reckoned from the month of his illegal termination *i.e.* September, 2008, except back wages. The petition is accordingly partly allowed. In the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 24th day of August, 2020.

Sd/-
(YOGESH JASWAL),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 120/2016

Date of Institution : 04.3.2016

Date of Decision : 28.8.2020

Smt. Bhag Dei w/o Shri Girdhari Lal, r/o Village and Post Office Dharwas, Tehsil
Pangi, District Chamba, H.P. *Petitioner.*

Versus

The Executive Engineer, Killar Division, H.P.P.W.D. Killar, Tehsil Pangi, District Chamba, H.P. . Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Munish Kumar, Adv. Vice

For the Respondent : Sh. Anil Sharma, Dy.D.A.

AWARD

The reference given below has been received from the appropriate Government for adjudication:

“Whether the industrial dispute raised by the worker Smt. Bhag Dei w/o Shri Girdhari Lal, r/o Village and Post Office Dharwas, Tehsil Pangi, District Chamba, H.P. before the Executive Engineer, Killar Division, H.P.P.W.D. Killar, Tehsil Pangi, District Chamba, H.P. vide demand notice dated 2.4.2012 regarding her alleged illegal termination of service during August, 2004 suffers from delay and laches? If not, Whether termination of the services of Smt. Bhag Dei w/o Shri Girdhari Lal, r/o Village and Post Office Dharwas, Tehsil Pangi, District Chamba, H.P. by the Executive Engineer, Killar Division, H.P.P.W.D. Killar, Tehsil Pangi, District Chamba, H.P. during August, 2004 without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to from the above employer?”

2. The case of the petitioner as it emerges from the statement of claim is that she was appointed as a daily waged beldar w.e.f. July, 1995 by the respondent. She continuously worked without breaks upto 1st September, 2004 with the respondent. Her services were orally terminated by the respondent without any notice or reason. Thereafter, the petitioner had made several requests to the respondent, but she was not re-engaged despite availability of work and funds. Persons junior to her have been allowed to continue as beldars. The respondent has completely ignored the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for short). She has worked for 160 days preceding twelve calendar months. For the tribal area, the State of Himachal Pradesh has fixed a criteria of 160 days for the purpose of continuous service under Section 25-B of the Act. The act and conduct of the respondent is illegal and unjustified. The petitioner, thus, prays for her re-engagement with all consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objections regarding lack of maintainability and that the petition was bad on account of delay and laches. The contents of the petition were denied on merits. It was asserted that the petitioner was initially engaged in the year 2002 and had worked as such upto the year 2006 intermittently. He had not completed 160 days in any calendar year. No fictional breaks were ever given to him. He is gainfully employed as an agriculturist. Since the petitioner had not completed 160 days in any calendar year and had not fulfilled the conditions of Section 25-B of the Act, there is no violation Section 25-F of

the Act. Neither any junior was retained nor re-engaged by the respondent. The services of the petitioner had never been terminated by the respondent. He had left the job of his own sweet will. The respondent, thus, prays for the dismissal of the claim.

4. Be it recorded here that reply to this reference has not been filed by the respondent. The reply filed in this case pertains to Reference No. 274/2016 titled as *Jai Ram vs. The Executive Engineer, HPPWD, Killar, District Chamba, H.P.* Despite being afforded ample and last opportunities, no application under Section 151 of Code of Civil Procedure was filed by the respondent to seek the permission of the Court to file the reply to the present reference.

5. While filing the rejoinder the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

6. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Tribunal vide order dated 05.12.2017:

1. Whether the industrial dispute raised by petitioner *vide* demand notice dated 02-04-2012 qua her termination of service during August, 2004 by respondent suffers from the vice of delay and laches as alleged? . . .*OPP.*
2. Whether termination of the services of petitioner by the respondent during August, 2004 is/was illegal and unjustified as alleged? . . .*OPP.*
3. If issue No. 1 or issue No. 2 are proved in affirmative, to what service benefits petitioner is entitled to? . . .*OPP.*
4. Whether the claim petition is not maintainable in the present form as alleged? . . .*OPR.*

Relief.

7. Thereafter, evidence was led by the parties to the list in support of the issues so framed.

8. Arguments of the learned counsel for the petitioner and the learned Deputy District Attorney for the respondent heard and records gone through.

9. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

- | | |
|-------------|--|
| Issue No. 1 | : Negative |
| Issue No. 2 | : Partly affirmative |
| Issue No. 3 | : Lump sum compensation of ₹1,25,000/- |
| Issue No.4 | : Negative |
| Relief. | : Petition is partly allowed awarding lump sum compensation of ₹1,25,000/- as per the operative part of the award. |

REASONS FOR FINDINGS

Issues No. 1 to 3 :

10. All these issues are intrinsically connected with each other and required common appreciation of evidence, hence are taken together for the purpose of determination and adjudication.

11. The petitioner, namely, Smt. Bhag Dei examined herself as PW1 and filed her affidavit in evidence, which is exhibited as Ex. PW1/A. In her affidavit, she reiterated the contents of her statement of claim. She also filed certain documents purportedly in support of her claim which are Mark-A1 to Mark-A57.

In the cross-examination, she stated that she had worked in the department. She denied that she had not worked continuously as a beldar in the department. Further she denied that she had left the work of her own sweet will. It was also denied that she had not worked for 160 days in any of the years to fulfill the criteria of tribal area. She denied that no junior to her had been kept at work by the department. She owns land, which she cultivates. She denied that she is making a phoney statement.

12. Conversely, Shri Rajeev Kumar, Executive Engineer, HPPWD, Division Killar (respondent) testified as RW1. In his affidavit Ex. RW1/A preferred as per Order 18 Rule 4 of the Code of Civil Procedure, he corroborated on oath the contents of the reply filed by him.

In the cross-examination, he admitted that the petitioner was employed as a daily waged worker in the department. He was also categorical that no appointment letter had been issued to her while engaging her. He also clearly admitted that during the period of work, no departmental inquiry had been initiated against the petitioner. Further, he clearly admitted that as per the record, the petitioner had never been called again for work. Volunteered that, she had left the job of her own. He also admitted that as per the Court orders, when the co-workers were re-engaged, the petitioner had not been called for work. He specifically denied that the petitioner had completed 160 days of work in each year. However, he admitted that the petitioner had worked on muster rolls. He also admitted that as per the Government policy all those workers have been regularized, who had regularly worked for eight to ten years.

13. Ex.RW1/B is the copy of mandays chart relating to the petitioner.

14. From the statement made by the respondent (RW1), it can be gathered that the petitioner had worked intermittently as a daily waged beldar with the department from the year 1995 uptil the year 2004. The version of the petitioner is that her services were wrongly and illegally terminated by the respondent on 1st September, 2004. While denying the said fact, the respondent has pleaded that the petitioner had left the job of her own free will and volition in the year 2004.

15. The first and foremost point which comes to the fore for determination is whether the petitioner had been disengaged from service or she herself had abandoned the job.

16. It is well known that abandonment has to be proved by the employer like any other fact. Therefore, the burden of proving of abandonment is upon the

respondent. It has been laid down by our own Hon'ble High Court in case titled as *Narain Singh vs. The State of Himachal Pradesh & Ors.*, 2016 (3) Him L.R. 1875 that voluntarily abandonment of work by a workman is required to be established by way of cogent and reliable evidence by the employer. Similarly, in case titled as *State of Himachal Pradesh & another vs. Shri Partap Singh*, 2017 (1) Him L.R. 286, it has been held by our own Hon'ble High Court that abandonment is not to be lightly presumed, but it has to be unequivocally proved by the employer. Simply because a workman fails to report for duty, it cannot be presumed that she has left/abandoned the job. Mere statement of Shri Rajeev Kumar (RW1) alleging that the workman had abandoned the services is entirely insufficient to discharge the said onus. Admittedly, no disciplinary proceedings were initiated against the petitioner by the respondent for her alleged willful absence from duty. Absence from duty is a serious misconduct and the principle of natural justice did require that some sort of a fact finding inquiry was got conducted by the respondent. In the present case as it emerges from the evidence on record, so was not done by the respondent. Then, 'animus' to abandon, it is well settled, must necessarily be shown to exist, before a case of abandonment can be said to have been made out. No evidence of any such 'animus' on the part of the petitioner is forthcoming in the present case. Thus, the plea of abandonment put forth by the respondent/employer is not established.

17. It was contended by the learned Deputy District Attorney for the respondent that the petitioner had not worked for 160 days during the preceding twelve months on daily wages and, therefore, the petitioner cannot claim any protection under the provisions of the Act. The case of the petitioner is that she had worked for more than 160 days in a year, the purported order of retrenchment is illegal, as conditions precedent as contained in Section 25-F of the Act were not complied with.

18. Section 25-B of the Act defines "continuous service". In terms of Sub-Section (2) of Section 25-B that if a workman during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer 240 days within a period of one year, she will be deemed to be in continuous service. However, the number of minimum requisite days specified for the tribal area of Pangi Sub-Division in Chamba District is 160 days. The burden of proof is on the petitioner to show that she had worked for 160 days in preceding twelve calendar months prior to her alleged retrenchment. The law on this issue is well settled. In *R.M. Yellatty vs. Assistant Executive Engineer*, (2006) 1 SCC 106, it has been laid by the Hon'ble Supreme Court that the burden of proof is on the claimant to show that he had worked for 240 days in a given year.

19. Applying the principles laid down in the above case by the Hon'ble Supreme Court, it was required of the petitioner to establish on record that she had worked continuously for a period 160 days in a block of twelve calendar months anterior to the date of her alleged termination, which as per the reference took place in the month of August, 2004. From the mandays chart Ex.RW1/B placed on the file, it becomes clear that the petitioner had not completed 160 days of continuous work in a block of twelve calendar months preceding the date/month of her retrenchment, i.e. August, 2004. Therefore, the provisions of Section 25-F of the Act are not attracted in this case.

20. The principle of "last come first go" is envisaged under Section 25G of the Act. The said Section provides:

"25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a

particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman”.

21. The petitioner in paragraph 3 of the statement of claim maintained that at the time her services were terminated, persons junior to her were retained in service by the respondent. So has also been spoken by her in her sworn testimony before the Court. No doubt, it there in the statement of the respondent (RW1) that no such juniors have been retained in service but, however, placed on the file by the respondent is the month/year-wise mandays detail of beldar named Shri Jai Ram. Though, this document has not been marked as an exhibit on the file, but it is my humble opinion that the same can still be looked into, it being an admitted document on the part of the respondent. A perusal of this document, which has been issued by the respondent itself, reveals that Shri Jai Ram had initially been engaged as a beldar by the department in the month of August, 2002 and that he had worked as such intermittently upto September, 2006. At the cost of repetition, I will like to add that the month of initial appointment of the petitioner as per Ex.RW1/B is July, 1995 and that as per the reference her services were terminated by the respondent in the month of August, 2004. This indicates that Shri Jai Ram, who was a beldar junior to the petitioner was still serving the respondent/department when the petitioner was retrenched. Therefore, the latter had failed to adhere to the principle of ‘last come first go’. Retaining a junior at the cost of senior is nothing but unfair labour practice. The same is violative of Section 25-G of the Act.

22. Since, the provisions of Section 25-G of the Act have been contravened, it was not obligatory for the petitioner to have completed 160 days in a block of twelve calendar months preceding termination to derive benefit under this Section of the Act. For taking this view, I am guided by the judgment rendered by our own Hon’ble High Court in case titled as *State of Himachal Pradesh & Anr. Vs. Shri Partap Singh, 2017 (1) Him L.R. 286*.

23. The petitioner’s allegation that the respondent had also violated the provisions of Section 25-H of the Act as well, to my mind, does not appear to have been substantiated. The statement of claim is non-existent in the names of the persons who were allegedly appointed by the respondent after her retrenchment. There is also no ocular evidence on record to show that new/fresh hands had been appointed by the respondent after her alleged termination. The material on record, thus, being too scanty and nebulous to lend assurance to her allegation that new workers were appointed after the termination of her services, the respondent cannot be said to have been proved to have violated the provisions of Section 25-H of the Act.

24. The learned Deputy District Attorney for the respondent contended that there being an inordinate delay in the steps taken by the petitioner for the redressal of her grievance, her claim suffers from the vice of delay and laches, which disentitles her to the relief (s) she has prayed for. The claim as such is not maintainable. This contention, to my thinking, appears to be ill conceived. The question of delay and laches was considered by the Hon’ble Supreme Court in case titled as *Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another, (1999) 6 SCC 82*, wherein it was *inter-alia* held:

“The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”.

25. In view of the aforesaid binding precedent, it cannot be said that the petition is hit by the vice of delay and laches. Of course, the delay in raising the industrial dispute by a workman can be taken into account by the Court while granting the relief(s) claimed. The observations made by our own Hon'ble High Court in case titled as *Liaq Ram vs. State of H.P. and ors., 2012 (2) Him. L.R.(FB) 580 (majority view)* will also be advantageous on this aspect of the matter.

26. In case titled as Assistant Engineer Rajasthan Development Corporation and another vs. Geetam Singh reported in 2013 (136) FLR 893 (SC), it was held by the Hon'ble Supreme Court that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute. It was also observed that the workman had worked for 286 days and had raised industrial dispute in the year 1992, whereas his services had been terminated in the year 1986 and had raised industrial dispute after six years. It was held that though the compensation awarded by the Single Judge of the Hon'ble High Court was too low and liable to be enhanced by the Division Bench, but surely reinstatement of the workman in the facts and circumstances was not the appropriate relief and thus a lump-sum of Rs.1 lakh along-with interest @ 9% per annum had been awarded. Recently, in case titled as *Deputy Executive Engineer vs. Kuberbhai Kanjibhai 2019 (160) FLR 651, by relying upon the cases of Bharat Sanchar Nigam Limited vs. Bhurumal (2014) 7 SCC 177 and District Development Officer & another vs. Satish Kantilal Amerelia 2018 (156) FLR 266 (SC)*, it has been held by the Hon'ble Supreme Court that where the workman had worked as a daily wager or muster roll employee hardly for a few years and where the dispute had been raised by him almost after 15 years of his alleged termination, he was held entitled only for lump sum monetary compensation in full and final satisfaction of his claim of reinstatement and other consequential benefits. Similarly, in case titled as *State of Uttarakhand & Anr. vs. Raj Kumar, 2019 (160) FLR 791*, the Hon'ble Supreme Court has held that where a daily wager has worked for about a year and a dispute was raised by him after 25 years of the alleged termination, he had no right to claim regularization and was only entitled to lump sum monetary compensation in full and final satisfaction of his claim of reinstatement and consequential benefits. In the case on hand before this Court, the factors which have weighed are that the petitioner had worked with the respondent for 1348 days as a non- skilled worker. Her services, as per the reference were disengaged in the month of August, 2004 and she had raised the industrial dispute by issuance of demand notice after more than seven years i.e. demand notice was given on 02.4.2012. Taking into consideration the factors mentioned above and the precedents laid down by the Hon'ble Supreme Court in the aforementioned cases, the petitioner is not entitled for reinstatement or for back wages, but only for a lump sum compensation.

27. In view of the discussion and findings arrived at by me above, a lump-sum compensation of ₹1,25,000/- (Rupees one lakh twenty five thousand only) would be an appropriate relief to which the petitioner is entitled to in the facts and

circumstances of the given case. It is further made clear that the amount of compensation shall be paid within four months from the date of receipt of Award, failing which the petitioner would be entitled to interest @ 6% per annum from date of Award till its realization. Issues No. 2 and 3 are answered partly in the affirmative and accordingly decided in favour of the petitioner, while issue No.1 is answered in the negative and decided against the respondent.

Issue No. 4 :

28. It has not been shown by the respondent as to how the present petition/ statement of claim is not maintainable. Moreover, this issue was not pressed for by the learned Deputy District Attorney appearing for the respondent at the time of arguments. Otherwise also, from the pleadings, it cannot be said that the petition/ statement of claim is not maintainable. Hence, this issue is answered in the negative and decided against the respondent.

Relief :

29. In the light of what has been discussed hereinabove while recording the findings on issues supra, the respondent is hereby directed to pay a compensation of ₹1,25,000/- (Rupees one lakh twenty five thousand only) to the petitioner in lieu of the reinstatement, back wages, seniority and past service benefits. Amount of compensation so awarded shall be paid by the respondent to the petitioner within four months from the date of receipt of Award failing which the respondent shall be liable to pay interest @ 6% per annum on the said amount from the date of award till realization/deposit of the amount. In the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 28th day of August, 2020.

Sd/-
(YOGESH JASWAL),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI YOGESH JASWAL, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No.	: 373/2012
Date of Institution	: 29.11.2012
Date of Decision	: 31.08.2020

Shri Pyar Chand s/o Shri Sher Singh, r/o Village Hard, P.O. Ropri Kelehu, Tehsil Joginder Nagar, District Mandi, H.P. *. .Petitioner.*

Versus

The Executive Engineer, H.P.P.W.D. Division, Joginder Nagar, District Mandi, H.P.
. Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Vijay Kaundal, Adv.

For the Respondent : Sh. Anil Sharma, Dy. D.A.

AWARD

The below given reference has been received from the appropriate Government for adjudication:

“Whether termination of services of Shri Pyar Chand s/o Shri Sher Singh, r/o Village Hard, P.O. Ropri Kelehru, Tehsil Joginder Nagar, District Mandi, H.P. from time to time during January, 2000 to 31-08-2007 by The Executive Engineer, H.P.P.W.D. Division, Joginder Nagar, District Mandi, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The case of the petitioner as set out in the statement of claim is that his services were engaged by the respondent in National Highway Division, Joginder Nagar as a daily rated beldar *w.e.f.* 06.01.2000. Later on the workmen of the Division including the petitioner were absorbed in the newly created HPPWD Division, Joginder Nagar in January, 2004. The respondent had given fictional breaks to the petitioner from time to time from the date of his initial engagement upto 31.8.2007. The muster rolls were issued to the petitioner only for 15 days in a month. Some of the juniors, namely, S/Sh./Smt. Dalip Singh, Gautam Singh, Geeta Devi, Pradeep Kumar, Kishori Lal, Sanjay Kumar, Bhag Mal, Nihal Chand, Anil Kumar and Chanchal were allowed to complete 240 days in each calendar year. Some of them have been regularized by the department. The respondent had only stopped giving him fictional breaks from 01.9.2007. Since then he has completed 240 days in each calendar year and is still working with the respondent/department. The act of the respondent was wrong, illegal and against the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘the Act’ for short). During the period from 06.01.2000 to 31.8.2007, the petitioner had requested the respondent not to give him fictional breaks, but without success. A demand notice was then raised by him before the Labour department. He, thus, prays that he be given the benefits of seniority for the period of fictional breaks along-with back wages and be regularized with other consequential benefits.

3. On notice, the respondent appeared. He filed a reply taking preliminary objections regarding lack of maintainability and that the petition was bad on account of delay and laches. The contents of the petition were denied on merits. It is asserted that the services of the petitioner were engaged *w.e.f.* 01.6.2000. The petitioner was employed by the Executive Engineer, National Highway Division, HPPWD, Joginder Nagar. The office started functioning *w.e.f.* January, 2004. No fictional breaks were given to the petitioner. Rather, the services of the petitioner were engaged as per the

availability of work and funds, on his request from time to time. The workmen whose names have been mentioned by the petitioner in the statement of claim had worked continuously and that their services have been regularized as per the seniority and on completion of 240 days in requisite years. Hence, it was prayed that the petition be dismissed.

4. While filing the rejoinder, the petitioner controverted the averments made in the reply and reiterated those in the statement of claim.

5. Out of the pleadings of the parties, the following issues were settled for determination and adjudication by this Court vide order dated 20.3.2013:

1. Whether the termination of the services/giving breaks in service to the petitioner by the respondent from time to time as per the reference is illegal and unjustified as alleged? . . . *OPP.*
2. Whether the petition is not maintainable in the present form? . . . *OPR.*
3. Whether the petition is hit by the vice of delay and laches as alleged. If so, its effect? . . . *OPR.*
4. Whether the petition is bad for non-joinder of the necessary parties as alleged. If so, its effect? . . . *OPR.*
5. Relief.
6. Be it recorded here that earlier the claim petition of the present petitioner had been dismissed for want evidence by this Tribunal vide order dated 12.6.2013.
7. Against the said order a Civil Writ Petition was preferred by the petitioner, which was disposed of by the Hon'ble High Court of Himachal Pradesh on 19th November, 2019 on the following terms:

“.....the impugned order is quashed and set aside. The petitioner is directed to appear before the learned Labour Court-cum-Industrial Tribunal, Dharamshala on 11.12.2019, on which date, a further date shall be given by the learned Labour Court to the petitioner to produce his evidence at his own responsibility. Learned Labour Court is further directed to expedite the hearing of the matter and decide the same preferably within a period of six months from today....”

8. In compliance of the aforesaid order passed by the Hon'ble High Court of H.P. in the above-mentioned Writ Petition, the petitioner was afforded an opportunity to produce his evidence at his own responsibility. He led his entire evidence in the matter on 25.2.2020. Thereafter, the case was listed for adducing evidence by the respondent on 03.03.2020. On the said date no evidence of the respondent was present and the case was adjourned for leading the evidence by the respondent at own responsibility and subject to last opportunity on 01.4.2020. In the meantime due to the outbreak/spread of COVID-19, the case could not be taken up for effective hearing and disposed of within a period of six months from 19.11.2019. It had to be listed for further proceedings. As per notification No.HHC/RG/C-19/2020-31 dated 07.8.2020 issued by the Hon'ble High Court of H.P., this case was taken up on 11.8.2020 for leading

evidence by the respondent. On the said date no evidence of the respondent was present and such evidence was only led in the matter on 24.8.2020.

9. Arguments of the learned counsel for the petitioner and the learned Deputy District Attorney for the respondent were heard on 24.8.2020 itself. Records have been gone through by me.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:

Issue No. 1 : Partly yes

Issue No. 2 : No

Issue No. 3 : No

Issue No. 4 : No

Relief : Petition is partly allowed as per the operative portion of the Award.

REASONS FOR FINDINGS

Issue No.1:

11. The short and simple case of the petitioner is that the respondent had been resorting to giving fictional breaks from the very inception upto 31.8.2007, as only muster-rolls for 15 days were issued to him.

12. In this regard Sh. Pyar Chand (petitioner) stepped into the witness box as PW1. He in his affidavit Ex.PW1/A submitted under Order 18 Rule 4 of the Code of Civil Procedure has deposed that the respondent had engaged him since June, 2000 on muster-rolls, but they were issued only for 15 days. The said process continued till 31.8.2007.

13. Conversely, Shri B.M. Thakur, Executive Engineer, Joginder Nagar (respondent) testified as RW1. He placed on record copy of mandays chart as Ex. RW1/B, copy of month-wise mandays chart as Ex. RW1/C and copy of mandays chart of ten workmen as Ex. RW1/D. In his cross-examination, he admitted that as per Ex. RW1/D the workmen shown at serial Nos. 1,2,3,4, 5 and 9 are junior to the petitioner and that they have been regularized. He further admitted that the said workmen had not been given fictional breaks. Further, he admitted that the nature of job of these workmen was similar to that of the petitioner. Volunteered that, the sites might be different.

14. There is no denial of the fact that Reference No.110/2006 titled as The General Secretary, Himshakati PWD Karamchari Sangh Jogindernagar, District Mandi, H.P. vs. The Executive Engineer, HPPWD, (B&R) Division, Joginder Nagar, District Mandi, H.P. was decided by this Court/Tribunal on 2.11.2010. While deciding the said reference, it was held by this Court/Tribunal that the workmen therein were in continuous service with the respondent from their respective dates of engagement and the breaks which were given to them by the respondent being fictional in nature shall have no effect on their seniority and continuity of service. Manifest that it is not in one odd case, but

in the case of a number of workmen that such procedure had been adopted by the respondent. Why, how and under what circumstances the muster-rolls were issued only for 15-20 days to the workman has not been clearly spelt out by the respondent either in his pleadings or in the evidence. It is the version of the respondent that the services of the petitioner were only being engaged for 10/15/20 days for want of work and funds. There is no cogent, convincing, strong and reliable evidence on record to substantiate this plea, except for the self serving testimony of the respondent.

15. On the other hand, the mandays chart of ten workmen Ex.RW1/D shows that workmen, namely, Shri Dalip Singh was engaged in July, 2002, Shri Gautam Ram in November, 2002, Shri Pradeep Kumar and Shri Kishori Lal in January, 2004, Shri Nihal Chand in October, 2003 and Shri Anil Kumar in February, 2003. Their names figure at serial nos. 2,3,5,6 and 4 in Ex.RW1/D. A perusal of Ex.RW1/D shows that all the aforesaid workmen were being offered muster-rolls for a full month. Admittedly, even these workmen are employed in B&R Division HPPWD, Joginder Nagar. The respondent while appearing as RW1 has admitted that all the above-named workmen, who were junior to the petitioner, were not given any breaks. Indisputably, the nature of job of all these workmen was similar to that of the petitioner. Why the petitioner, who admittedly was senior to the aforesaid workmen, was not granted the muster-rolls for the entire months *w.e.f.* December, 2000 upto 31.8.2007, has neither been explained nor there seems to be any plausible reason for the same. As discussed above, the reasons to that effect being obscure only go to show that the story put forth by the respondent that as adequate work and funds were not available, the petitioner was not being granted the muster-rolls for the entire month is incorrect. After August, 2007 the respondent had started giving muster-roll for the entire month to the petitioner, as is evident from the substantive evidence of the petitioner. He continued working uninterruptedly but only for 15 to 20 days in a month right from December, 2000 till 31.8.2007. Certain similarly situated persons, however, continued to be granted full muster-roll. The respondent was either resorting to favouritism or acting in a partisan manner to the petitioner or was simply resorting to such process with an object of depriving him of the status and privileges of a permanent workman, entitling him to regularization as per the policy of the State Government. It is an act of gross discrimination which is *ex facie* borne out from the record. There can be no two opinions about it. Mere glance at the record highlights the glaring discrepancy and discrimination perpetuated by the respondent.

16. The aforesaid act of the respondent, as discussed above, is not only an 'unfair labour' practice as per the provisions of the Section 2(ra) of the Act, but is also against the provisions of Section 25-B of the Act, which stipulates that the workman shall be in 'continuous service', except because of an interruption on account of sickness authorized leave, accident, strike, which is illegal or lock out and the cessation of work which is not due to any fault on the part of the workman. The action of the respondent in not intentionally issuing muster-roll for the entire month to the petitioner was not due to any fault of the petitioner. The cessation of work was caused due to the arbitrary and discriminatory attitude of the respondent. Therefore, it has to be presumed that the workman *i.e.* petitioner was in 'continuous service'. He continued serving the respondent uninterruptedly from December, 2000. The sole inference which can be drawn from the entire circumstances as discussed above is that the action of the respondent in giving fictional breaks to the petitioner and in the process disengaging him after 15-20 days every month from December, 2000 till 31.8.2007 was illegal and against the provisions of the Act.

17. The upshot is that the petitioner was in continuous no effect on his seniority and continuity in service. His seniority shall be reckoned from December, 2000.

18. This issue under discussion is accordingly decided partly in favour of the petitioner and against the respondent.

Issue No. 2 :

19. In view of what has been held under the foregoing issues, the petition is perfectly maintainable to the extent the same relates to the relief(s) the petitioner is found entitled to. Even otherwise, nothing has been brought to my notice by the respondent to show as to how the reference is not maintainable. The issue under discussion is accordingly decided against the respondent and in favour of the petitioner.

Issue No. 3 :

20. In *Ajayab Singh vs. Sirhind Co-operative Marketing-cum-Processing Society Limited and Another*, (1999) 6 SCC 82, it has been observed by the Hon'ble Supreme Court that:

“The provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”.

21. In view of the trite laid down in this ruling, it cannot be said that the petition is hit by the vice of delay and laches. Hence, this issue under discussion is decided in favour of the petitioner and against the respondent.

Issue No. 4 :

22. No arguments were addressed on this issue nor it was pressed for at the time of arguments by the learned Deputy District Attorney for the respondent. Otherwise also, from the pleadings, it cannot be said that the petition/statement of claim is bad for non-joinder of necessary parties. Then, Shri B.M. Thakur (RW1) while under cross-examination was categorical that B&R Sub Division Ladbharol prior to 2.1.2004 was under National Highway Division, Joginder Nagar. The issue under discussion is accordingly decided against the respondent and in favour of the petitioner.

Relief:

23. As a sequel to my findings on issues above, the instant claim petition succeeds in part and the same is partly allowed. It is held that the petitioner was in continuous uninterrupted service with the respondent from December, 2000 upto 31.8.2007. The breaks given by the respondent to the petitioner from the month December, 2000 upto 31.8.2007 were artificial/fictional in nature. This period of fictional breaks is ordered to be counted for the purpose of continuous service, except back wages. His seniority shall be reckoned from December, 2000. Parties to bear their own costs. The reference is answered in the aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 31th day of August, 2020.

Sd/-
(YOGESH JASWAL),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

वन विभाग

अधिसूचना

शिमला-2, 1 मार्च, 2021

संख्या: एफ0एफ0ई0-बी0-एफ0(14)-1/2021.—भारतीय वन अधिनियम, 1927 (1927 का अधिनियम संख्यांक 16) की धारा 29 की उप-धारा (3) के अधीन यथा अपेक्षित के अनुसार इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट वन भूमि या बंजर भूमि में या उस पर सरकार तथा प्राइवेट व्यक्तियों के अधिकारों के स्वरूप और विस्तार की जांच कर ली गई है और उन्हें अभिलिखित कर लिया गया है;

और उक्त अनुसूची में दर्शित वन भूमि या बंजर भूमि, सरकार की सम्पत्ति है, या जिस पर सरकार के सांपत्तिक अधिकार हैं या सरकार उसकी वन उपज के सम्पूर्ण या किसी भाग की हकदार है;

अतः हिमाचल प्रदेश के राज्यपाल, पूर्वोक्त अधिनियम की धारा 29 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, घोषणा करते हैं कि उक्त अधिनियम के अध्याय-4 के उपबन्ध उक्त वन भूमि या बंजर भूमि को लागू होंगे और जो इसके पश्चात् पूर्वोक्त अधिनियम की धारा 29 की उप-धारा (2) के उपबन्धों के अधीन “संरक्षित वन” कहलाएगी।

अनुसूची

परिक्षेत्र: कोटी

वन मण्डल: शिमला

तहसील/ उप तहसील : जुन्गा

जिला: शिमला

क्रम संख्या	नस्ति संख्या	वन का नाम जिसे सीमांकित संरक्षित वन में परिवर्तित किया जाना अपेक्षित है	महाल का नाम	खसरा नम्बर	हैक्टेयर में क्षेत्रफल	मुख्य सीमाएं
1.	68/2018	चचैया पान्दली-द्वितीय	चचैया पान्दली	876/1, 877/1, 880/1, 887/1, 888, 889/1, 890, 897/1, 898/1 कित्ता-9	05-75-13	उत्तर- सम्पदा चोरी, ढलयाणा। पूर्व- सम्पदा ढलयाणा दक्षिण- सीमा सम्पदा चचैया पान्दली। पश्चिम- सम्पदा चोरी
2.	70/2018	घड़ौत-प्रथम	घड़ौत	116/1, 116/3, 146/1/1,	13-15-60	उत्तर- सम्पदा घड़ौत पूर्व- सम्पदा घड़ौत दक्षिण- सम्पदा

				146/1/3, 146/1/6, 185/1, 185/3 किता-7		खिलखजेवड़ा, डी0पी0एफ0 कोहान। पश्चिम- सम्पदा घड़ौत
3.	79/2018	चचैया पान्दली-प्रथम	चचैया पान्दली	1/1, 78/1, 78/4, 83, 84/1, 84/5, 127/1, 129, 132, 134, 136 किता-11	05-62-82	उत्तर- सम्पदा चचैया पान्दली। पूर्व- सम्पदा चचैया पान्दली। दक्षिण- सम्पदा महेशू पश्चिम- महाल कयाणा, चचैया पान्दली।
4.	85/2018	महेशू-प्रथम	महेशू	1, 2/1, 2/3, 11, 325/1 किता-5	05-57-06	उत्तर- सम्पदा चचैया पान्दली। पूर्व- सम्पदा महेशू दक्षिण- महाल आरक्षित वन वीणू। पश्चिम- महाल अयाण
5.	89/2018	खील	खील	133/1, 133/4, 531 किता-3	18-70-66	उत्तर- मजरुआ रकबा खील खजेवड़ा। पूर्व- डी0पी0एफ0 कोहान, महाल कोहान। दक्षिण- मजरुआ रकबा खील खजेवड़ा। पश्चिम- मजरुआ रकबा खील खजेवड़ा।

आदेश द्वारा,

आर. डी. धीमान,
अतिरिक्त मुख्य सचिव (वन)।

[Authoritative English text of this Department Notification No. FFE-B-F(14)- 1/2021, dated 1st March, 2021 as required under Article 348(3) of the Constitution of India].

FORESTS DEPARTMENT

NOTIFICATION

Shimla-2, the 1st March, 2021

No. FFE-B-F(14)-1/2021.—WHEREAS, the nature and extent of the rights of the Government and of the private persons in or over the forest land or waste land specified in the SCHEDULE appended to this notification have been enquired into and recorded, as required under sub-section (3) of section 29 of the Indian Forest Act, 1927 (Act No. 16 of 1927);

AND WHEREAS, the forest land or waste land shown in the said SCHEDULE is the property of the Government or over which the Government has proprietary rights or the Government is entitled to the whole or any part of the forest produce therein;

NOW THEREFORE, in exercise of the powers conferred by sub- section (1) of section 29 of the Act *ibid*, the Governor, Himachal Pradesh is pleased to declare that the provisions of Chapter-IV of the said Act shall apply to the said forest land or waste land and shall hereafter be called as “protected forests” under the provisions of sub-section (2) of section 29 of the Act *ibid*.

SCHEDULE

Range: KOTI

Division: SHIMLA

Tehsil/ Sub Tehsil: JUNGA

District: SHIMLA

Sr. No.	File No.	Name of Forest required to be converted into Demarcated Protected Forests	Name of Muhal	Khasra number (s)	Area in hectare (s)	Cardinal Boundaries
1.	68/2018	Chachaiya Pandali-II	Chachaiya Pandali	876/1, 877/1, 880/1, 887/1, 888, 889/1, 890, 897/1, 898/1 Kitta- 9	05-75-13	North- Sampda Chouri, Dhalyana East- Sampda Dhalyana South- Boundary Sampda Chachaiya Pandali West- Sampda Chouri
2.	70/2018	Gharaut-I	Gharaut	116/1, 116/3, 146/1/1, 146/1/3, 146/1/6, 185/1, 185/3 Kitta-7	13-15-60	North- Sampda Gharaut East- Sampda Gharaut South- Sampda Khil Khajevra, DPF Kohan. West- Sampda Gharaut
3.	79/2018	Chachaiya Pandali-I	Chachaiya Pandali	1/1, 78/1, 78/4, 83, 84/1, 84/5, 127/1, 129, 132, 134, 136 Kitta-11	05-62-82	North- Sampda Chachaiya Pandali. East- Sampda Chachaiya Pandali. South- Sampda Maheshu West- Muhal Kayana, Chachaiya Pandali.
4.	85/2018	Maheshu-I	Maheshu	1, 2/1, 2/3, 11, 325/1 Kitta- 5	05-57-06	North- Sampda Chachaiya Pandali East- Sampda Maheshu South- Muhal Reserved Forest Veenu. West- Muhal Ayan
5.	89/2018	Kheel	Kheel	133/1, 133/4, 531 Kitta-3	18-70-66	North- Cultivated area Khil Khajevra. East- DPF Kohan, Muhal Kohan South- Cultivated area Khil Khajevra. West- Cultivated area Khil Khajevra.

By order,
R. D. DHIMAN,
Additional Chief Secretary.

REAL ESTATE REGULATORY AUTHORITY**NOTIFICATION***Shimla, the 3rd March, 2021*

No. HP/RERA-(A)-3-2/Regulations/2020/Vol-1.—In exercise of the powers conferred by section 85 of the Real Estate (Regulation and Development) Act, 2016 (Act No. 16 of 2016) read with the Himachal Pradesh Real Estate (Regulation and Development) Rules, 2017 and all other powers enabling it on that behalf, the Himachal Pradesh Real Estate Regulatory Authority, hereby makes the following Regulation:—

1. Short title and commencement.—(1) This Regulation may be called the Himachal Pradesh Real Estate Regulatory Authority (Filing of Quarterly Progress Report by the Real Estate Agents), **Regulation No. 5.**

(2) This Regulation shall come into force from the date of its publication in the Official Gazette of Himachal Pradesh.

2. Definitions.—(1) In this Regulation, unless the context otherwise requires,—

- (a) “Act” means the Real Estate (Regulation and Development) Act, 2016 (Act No. 16 of 2016), as amended from time to time;
- (b) “Agreement for sale of plots or building units” means an agreement entered between the promoter and the allottee for sale of a plot or building unit in a real estate project, as prescribed in Form-L' as provided in the Himachal Pradesh Real Estate (Regulation and Development) Rules, 2017;
- (c) “Apartment” shall have the same meaning as defined under clause (e) of section 2 of the Act;
- (d) “Authority” means the Himachal Pradesh Real Estate Regulatory Authority established under sub-section (1) of section 20 of the Act;
- (e) “Conveyance Deed” means a sale deed entered between the promoter (seller) and the allottee (purchaser) for plot(s) or apartment(s) or cottage(s) or garage(s) or commercial unit(s), as the case may be, duly executed /registered by the competent authority;
- (f) “Notification” means a notification published in the Official Gazette of Himachal Pradesh and the expression “notify” shall be construed accordingly;
- (g) “Promoter” shall have the same meaning as defined under clause (zk) of section 2 of the Act;
- (h) “Quarterly Progress Report” means the report to be furnished by the real estate agent indicating the names and addresses of the sellers and purchasers of the plots and apartments and dates of execution of conveyance deeds in the real estate projects, in the relevant quarter *i.e.* 1st April to 30th June, 1st July to 30th September, 1st October to 31st December and 1st January to 31st March of a financial year, to ensure that all compliances as required under the Act, Rules and Regulations are being adhered to.
- (i) “Real Estate Agent” shall have the same meaning as defined under clause (zm) of section 2 of the Act;

- (j) “Real Estate Project” shall have the same meaning as defined under clause (zn) of section 2 of the Act;
 - (k) “Regulations” means the Regulations made by the Authority under the Act and Rules;
 - (l) “Rules” means the Himachal Pradesh Real Estate (Regulation and Development) Rules, 2017 made by the Government of Himachal Pradesh under the Act; and
 - (m) “Website” means the official website of the Authority namely <http://hprera.in> or as prescribed by the Authority.
- (2) All the words and expressions used in this Regulation but not defined herein shall have the same meanings as have been assigned to them respectively either in the Act or the Rules made thereunder.

3. Applicability.—This Regulation shall apply to all the real estate agents registered with the Himachal Pradesh Real Estate Regulatory Authority.

4. Filing of Quarterly Progress Report by the Real Estate Agents.—(1) This Regulation is meant to establish procedure for filing quarterly progress report by the real estate agents so as to ensure that they are facilitating the sale or lease or purchase of any plot or apartment or building or cottage or garage or commercial unit, as the case may be, in a real estate project or part of it, being sold by the promoter in any Planning Area, which is registered with the Himachal Pradesh Real Estate Regulatory Authority. The Regulation also covers in its ambit all matters connected therewith or incidental thereto.

(2) The Agent shall upload the quarterly progress report on the website of the Himachal Pradesh Real Estate Regulatory Authority for the public viewing.

(3) The quarterly progress report shall be for the current Financial Year and shall have to be uploaded/filed before 15th July (for the quarter 1st April to 30th June), 15th October (for the quarter 1st July to 30th September), 15th January (for the quarter 1st October to 31st December) and 15th April (for the quarter 1st January to 31st March) of each current Financial Year.

5. Format of Quarterly Progress Report.—The quarterly progress report shall be filed on the Format attached as Annexure QPR-1.

6. Miscellaneous.—(1) Till such time web based online filing of the quarterly progress report is functional, the filing of quarterly progress report on Format QPR-1, by email on the e-mail address of the Authority, hp.rera2020@gmail.com or as updated, shall be sufficient compliance of this Regulation.

(2) Non-filing of quarterly progress report within prescribed time frame will invite penal action as prescribed under the Act.

7. Regulation to have force of law under Indian Evidence Act, 1872.—The Regulation framed herein shall have binding effect as governed by Indian Evidence Act, 1872 amended by the Information Technology (Amendment) Act, 2009 for the purpose of documentary and electronic admissibility of evidence.

8. Amendment of Orders.—Clerical or arithmetical or typographical mistakes or errors in orders arising therein from any accidental slip or omission may at any time be corrected by the Authority either of its own motion or on the application of any of the parties.

9. Power to remove difficulties.—If any difficulty arises in giving effect to any of the provisions of this Regulation, the Authority may, by general or special order, do anything not being inconsistent with the provisions of the Act or Rules, which appears to be necessary or expedient for the purpose of removing the difficulties.

By order,
Sd/-
(DR. SHRIKANT BALDI),
Chairperson.

Annexure-1

FORMAT (QPR-1)
QUARTELY PROGRESS REPORT TO BE FURNISHED BY THE
REAL ESTATE AGENT

1. Name of Real Estate Agent:
2. HP RERA Registration No:
3. Quarterly Progress Report for the Quarter: (Tick ✓ for the relevant Quarter)
 - (i) 1st April to 30th June
 - (ii) 1st July to 30th September
 - (iii) 1st October to 31st December
 - (iv) 1st January to 31st March

Sr. No.	Name and Address of the Promoter facilitated	Name and Address of the Purchaser / Allottee / Lessee facilitated	Number of Plot / Apartment	Category of Plot / Apartment, whether Residential or Commercial or Mixed	Area of Plot / Carpet Area of Apartment or Building or Cottage or Garage or Commercial Unit		Date of execution of Agreement for Sale / Lease	Date of execution of Conveyance / Sale Deed / Lease Deed
1	2	3	4	5	6		7	8
					Square Metres	Square Feet		
							Date..... *Agreement for Sale	Date..... *Conveyance/ Sale Deed

* Copies of first & last page (including the page describing details of property) of Agreement for Sale /Conveyance /Sale Deed /Lease Deed to be attached.

Price of Plot / Apartment as per Conveyance/ Sale Deed		List of Books of Account, records and documents in accordance with the provisions of the Income Tax Act, 1961 and Rules made thereunder		List of Agreement for Sale / Conveyance / Sale Deed under litigation	Brokerage / Commission taken by the Real Estate Agent Rupees	Remarks
9		10		11	12	13
Description	Rupees	Description	Details			
Price		Books maintained				
		** Register				

**Copy of pages of Register (whatever name it is) to be attached.

Dated.....

(Signature)

Address.....

.....

Phone No.....

e-mail.....

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171001

NOTIFICATION

Shimla, the 6th January, 2021

No.HHC/Admn.3(254)/87-I.—It is hereby notified that on attaining the age of superannuation, **Shri Kali Ram Sharma, Section Officer**, High Court of Himachal Pradesh, Shimla, shall stand retired from service on and with effect from **31-01-2021 (A.N.)**.

By order,

Sd/-

Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171001

NOTIFICATION

Shimla, the 6th January, 2021

No.HHC/Admn.3(258)/87-II.—It is hereby notified that on attaining the age of superannuation, **Shri Naresh Kumar Sharma, Court Master**, High Court of Himachal Pradesh, Shimla, shall stand retired from service on and with effect from **31-01-2021 (A.N.)**.

By order,

Sd/-

Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171001

NOTIFICATION

Shimla, the 6th January, 2021

No.HHC/Admn.3(217)/86-I.—It is hereby notified that on attaining the age of superannuation, **Shri Mohender Paul Ran, Section Officer**, High Court of Himachal Pradesh, Shimla, shall stand retired from service on and with effect from **31-01-2021 (A.N.)**.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171001

NOTIFICATION

Shimla, the 10th February, 2021

No.HHC/Admn.3(177)/82-I.—12 days earned leave on and *w.e.f.* 15-02-2021 to 26-02-2021 with permission to prefix second Saturday and Sunday falling on 13th & 14th February, 2021 and suffix Gazetted holiday and Sunday falling on 27th & 28th February, 2021 is hereby sanctioned in favour of Shri Suresh Kumar, Assistant Registrar of this Registry.

Certified that Shri Suresh Kumar is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri Suresh Kumar would have continued to officiate the same post of Assistant Registrar but for his proceeding on leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171001

NOTIFICATION

Shimla, the 10th February, 2021

No.HHC/Admn.3(253)/87-I.—12 days leave *i.e.* 02 days earned leave for 26-12-2020 & 27-12-2020 and 10 days commuted leave *w.e.f.* 28-12-2020 to 06-01-2021 with permission to prefix Gazetted holiday fell on 25-12-2020 is hereby sanctioned, *ex-post-facto*, in favour of Shri Sanam Ram Sharma, Assistant Registrar of this Registry.

Certified that Shri Sanam Ram Sharma has joined the same post and at the same station from where he had proceeded on leave after the expiry of the above leave period.

Certified that Shri Sanam Ram Sharma would have continued to officiate the same post of Assistant Registrar but for his proceeding on leave.

By order,
Sd/-
Registrar General.

ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, डाडा सीबा, जिला कांगड़ा (हि0 प्र0)

यशपाल पुत्र मोती राम, निवासी महाल वैही घमलेहड, डाकघर जम्बल, तहसील डाडा सीबा, जिला कांगड़ा (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

प्रत्यार्थीगण।

उनवान मुकद्दमा.—प्रार्थना—पत्र दुरुस्ती नाम कागजात माल महाल बही घमलेहड, तहसील डाडा सीबा, जिला कांगड़ा (हि0 प्र0)।

यशपाल पुत्र मोती राम, निवासी महाल बही घमलेहड, डाकघर जम्बल, तहसील डाडा सीबा, जिला कांगड़ा (हि0 प्र0) ने अदालत हजा में सशपथ प्रार्थना—पत्र दिया है कि उसका सही नाम पंचायत रिकार्ड, स्कूल रिकार्ड में यशपाल पुत्र मोती राम दर्ज है जबकि राजस्व रिकार्ड महाल बही घमलेहड में उसका नाम रछपाल सिंह पुत्र मोती राम पुत्र साईदास दर्ज है जो सही न है प्रार्थी ने उपरोक्त नाम की दुरुस्ती करवाने बारे अनुरोध किया है।

अतः उपरोक्त नाम दुरुस्ती बारे सर्वसाधारण आम जनता को इस राजपत्र इश्तहार व मुश्री मुनादी द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त नाम दुरुस्ती बारे कोई उजर/एतराज हो तो वह दिनांक 18-03-2021 को प्रातः 10.00 बजे इस मुकद्दमा की पैरवी हेतु व्यक्तिगत रूप से अथवा किसी अधिकृत एजेंट के माध्यम से या किसी अधिवक्ता के माध्यम से इस न्यायालय में उपस्थित आवें। गैरहाजिरी की सूरत में नाम दुरुस्त करने हेतु आदेश पारित कर दिये जायेंगे। बाद मियाद तारीख पेशी कोई उजर/एतराज काबिले गौर न होगा।

आज दिनांक 26-02-2021 को मेरे हस्ताक्षर व मोहर न्यायालय द्वारा जारी किया गया।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
डाडा सीबा, जिला कांगड़ा (हि0 प्र0)।

ब अदालत श्री शाम स्वरूप, कार्यकारी दण्डाधिकारी, भवारना, जिला कांगड़ा (हि0 प्र0)

मुकद्दमा नं0 : 2021

तारीख पेशी : 30-03-2021

चम्पा देवी पुत्री शेर सिंह, निवासी गांव व डाकघर पुन्नर, उप-तहसील भवारना, जिला कांगड़ा (हि0 प्र0) प्रार्थिया।

बनाम

आम जनता

प्रतिवादी।

विषय.—जन्म व मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के तहत जन्म पंजीकरण हेतु प्रार्थना-पत्र।

प्रार्थिया चम्पा देवी पुत्री शेर सिंह, निवासी गांव व डाकघर पुन्नर, उप-तहसील भवारना, जिला कांगड़ा (हि0 प्र0) ने इस अदालत में स्वयं हाजिर होकर प्रार्थना-पत्र मय ब्यान हल्फी, स्थानीय उप-पंजीकार ग्राम पंचायत मालनू अतिरिक्त जिला पंजीकार, जन्म व मृत्यु कांगड़ा स्थित धर्मशाला द्वारा जारी अपर्याप्तता प्रमाण-पत्र व आधार कार्ड पेश करते हुए आवेदन किया है कि उसका जन्म दिनांक 20-01-1965 को गांव पुन्नर, ग्राम पंचायत मालनू में हुआ है। परन्तु अज्ञानता के कारण उसके जन्म का पंजीकरण स्थानीय ग्राम पंचायत अभिलेख में नहीं करवाया गया है। अतः प्रार्थिया इस न्यायालय के माध्यम से अपने जन्म पंजीकरण करने का आदेश ग्राम पंचायत मालनू को जारी करवाना चाहती है।

अतः प्रार्थिया का आवेदन स्वीकार करते हुए इस इश्तहार अखबारी, राजपत्र हि0प्र0 व मुस्त्री मुनादी, चस्पांगी द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति या संस्था को उपरोक्त चम्पा देवी का जन्म दिनांक 20-01-1965 के पंजीकरण बारे कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी 30-03-2021 को हाजिर अदालत होकर अपना उजर व एतराज पेश कर सकता है बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व उपरोक्त की जन्म तिथि 20-01-1965 के पंजीकरण करने का आदेश उप-स्थानीय पंजीकार जन्म एवं मृत्यु ग्राम पंचायत मालनू को पारित कर दिया जाएगा।

यह इश्तहार मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 25-02-2021 को जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
भवारना, जिला कांगड़ा (हि0 प्र0)।

ब अदालत श्री शाम स्वरूप, कार्यकारी दण्डाधिकारी, भवारना, जिला कांगड़ा (हि0 प्र0)

मुकद्दमा नं0 : 2021

तारीख पेशी : 30-03-2021

चम्पा देवी पुत्री शेर सिंह, निवासी गांव व डाकघर पुन्नर, उप-तहसील भवारना, जिला कांगड़ा (हि0 प्र0) प्रार्थिया।

बनाम

विषय.—जन्म व मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के तहत जन्म पंजीकरण हेतु प्रार्थना—पत्र।

प्रार्थिया चम्पा देवी पुत्री शेर सिंह, निवासी गांव व डाकघर पुन्नर, उप—तहसील भवारना, जिला कांगड़ा (हि0 प्र0) ने इस अदालत में स्वयं हाजिर होकर प्रार्थना—पत्र मय ब्यान हल्फी, स्थानीय उप—पंजीकार ग्राम पंचायत मालनू अतिरिक्त जिला पंजीकार, जन्म व मृत्यु कांगड़ा स्थित धर्मशाला द्वारा जारी अपर्याप्तता प्रमाण—पत्र व आधार कार्ड पेश करते हुए आवेदन किया है कि उसके भाई मलकीयत सिंह पुत्र शेर सिंह, वासी पुन्नर का जन्म दिनांक 10—12—1957 को गांव पुन्नर, ग्राम पंचायत मालनू में हुआ है। परन्तु अज्ञानता के कारण उसके जन्म का पंजीकरण स्थानीय ग्राम पंचायत अभिलेख में नहीं करवाया गया है। अतः प्रार्थिया इस न्यायालय के माध्यम से अपने भाई के जन्म पंजीकरण करने का आदेश ग्राम पंचायत मालनू को जारी करवाना चाहती है।

अतः प्रार्थिया का आवेदन स्वीकार करते हुए इस इशतहार अखबारी, राजपत्र हि0प्र0 व मुन्त्री मुनादी, चस्पांगी द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति या संस्था को उपरोक्त मलकीयत सिंह का जन्म दिनांक 10—12—1957 के पंजीकरण बारे कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी 30—03—2021 को हाजिर अदालत होकर अपना उजर व एतराज पेश कर सकता है बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व उपरोक्त की जन्म तिथि 10—12—1957 के पंजीकरण करने का आदेश उप—स्थानीय पंजीकार जन्म एवं मृत्यु ग्राम पंचायत मालनू को पारित कर दिया जाएगा।

यह इशतहार मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 25—02—2021 को जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी,
भवारना, जिला कांगड़ा (हि0 प्र0)।

ब अदालत श्री शाम स्वरूप, कार्यकारी दण्डाधिकारी, भवारना, जिला कांगड़ा (हि0 प्र0)

मुकद्दमा नं0 : 2021

तारीख पेशी : 30—03—2021

चम्पा देवी पुत्री शेर सिंह, निवासी गांव व डाकघर पुन्नर, उप—तहसील भवारना, जिला कांगड़ा (हि0 प्र0) प्रार्थिया।

बनाम

आम जनता

प्रतिवादी।

विषय.—जन्म व मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के तहत जन्म पंजीकरण हेतु प्रार्थना—पत्र।

प्रार्थिया चम्पा देवी पुत्री शेर सिंह, निवासी गांव व डाकघर पुन्नर, उप—तहसील भवारना, जिला कांगड़ा (हि0 प्र0) ने इस अदालत में स्वयं हाजिर होकर प्रार्थना—पत्र मय ब्यान हल्फी, स्थानीय उप—पंजीकार ग्राम पंचायत मालनू अतिरिक्त जिला पंजीकार, जन्म व मृत्यु कांगड़ा स्थित धर्मशाला द्वारा जारी अपर्याप्तता

प्रमाण-पत्र, आधार कार्ड पेश करते हुए आवेदन किया है कि उसके भाई जोगिन्द्र सिंह पुत्र शेर सिंह वासी पुन्नर का जन्म दिनांक 11-05-1966 को गांव पुन्नर, ग्राम पंचायत मालनू में हुआ है। परन्तु अज्ञानता के कारण उसके जन्म का पंजीकरण स्थानीय ग्राम पंचायत अभिलेख में नहीं करवाया गया है। अतः प्रार्थिया इस न्यायालय के माध्यम से अपने भाई के जन्म पंजीकरण करने का आदेश ग्राम पंचायत मालनू को जारी करवाना चाहती है।

अतः प्रार्थिया का आवेदन स्वीकार करते हुए इस इशतहार अखबारी, राजपत्र हि0प्र0 व मुस्त्री मुनादी, चस्पांगी द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति या संस्था को उपरोक्त जोगिन्द्र सिंह का जन्म दिनांक 11-05-1966 के पंजीकरण बारे कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी 30-03-2021 हाजिर अदालत होकर अपना उजर व एतराज पेश कर सकता है बाद तारीख पेशी किसी किस्म का उजर एवं एतराज नहीं सुना जावेगा व उपरोक्त की जन्म तिथि 11-05-1966 के पंजीकरण करने का आदेश उप-स्थानीय पंजीकार जन्म एवं मृत्यु ग्राम पंचायत मालनू को पारित कर दिया जाएगा।

यह इशतहार मेरे हस्ताक्षर व मोहर अदालत से आज दिनांक 25-02-2021 को जारी हुआ।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी,
भवारना, जिला कांगड़ा (हि0 प्र0)।

**In the Court of Shri Manoj Kumar, Sub-Divisional Magistrate, Shimla (R),
District Shimla (H. P.)**

Smt. Kanta Devi w/o Sh. Gangu Ram, r/o Village Chinee Banglow, P.O. Kufri, Tehsil and District Shimla, Himachal Pradesh.

Versus

General Public

. . Respondent.

Whereas Smt. Kanta Devi w/o Sh. Gangu Ram, r/o Village Chinee Banglow, P.O. Kufri, Tehsil and District Shimla, Himachal Pradesh has filed an application alongwith affidavit in the court of undersigned under section 13(3) of the Birth & Death Registration Act, 1969 to enter the name/date of death of her son named— Late Sh. Vicky s/o Sh. Gangu Ram, r/o Village Chinee Banglow, P.O. Kufri, Tehsil and District Shimla, Himachal Pradesh in the record of Secy., Birth and Death, Gram Panchayat Darbhog, Tehsil and District Shimla (H.P.).

Sl. No.	Name of the family member	Relation	Date of Death
1.	Late Sh. Vicky	Son	14-03-2014

Hence, this proclamation is issued to the general public if they have any objection/claim regarding to enter the name/date of death of above named in the record of Gram Panchayat Darbhog, Tehsil and District Shimla (H.P.) may file their claims/objections on or before one month

of publication of this notice in Govt. Gazette in this court, failing which necessary orders will be passed.

Issued today 02-03-2021 under my signature and seal of the court.

Seal.

Sd/-
Sub-Divisional Magistrate,
Shimla (R), District Shimla (H.P.).

In the Court of Executive Magistrate, Tehsil Nerwa, District Shimla (H. P.)

Sh. Rajesh s/o Dhani Ram, r/o Village Dhawada, P.O. Gianh, Tehsil Nerwa, District Shimla (H.P.) . . Applicant.

Versus

General Public . . Respondent.

Application under section 13 (3) of Birth and Death Registration Act, 1969.

Whereas, Sh. Rajesh s/o Dhani Ram, r/o Village Dhawada, P.O. Gianh, Tehsil Nerwa, District Shimla (H.P.) has preferred an application to undersigned for registration of name of his son/daughter namely Mr. Ramesh whose date of birth is 27-03-2002 & Miss Sapna 28-04-2001 in the Gram Panchayat Manu Bhabiya, Tehsil Nerwa, District Shimla (H.P.).

Therefore by this proclamation, the general public is hereby informed that any person having any objection for entry as to date of birth mentioned above, may submit his/her objection in writing in this court on or before 22-03-2021 failing which no objection will be entertained after expiry of date and will be decided accordingly.

Given under my hand and seal of the court on this 22-02-2021.

Seal.

Sd/-
(ASHOK KUMAR)
Executive Magistrate,
Tehsil Nerwa, District Shimla (H.P.).

ब अदालत कार्यकारी दण्डाधिकारी, जुब्बल, जिला शिमला, हिमाचल प्रदेश

श्री प्रेम सिंह पुत्र श्री गुरबचन सिंह, निवासी वार्ड नं० 2, नगर पंचायत जुब्बल, तहसील जुब्बल, जिला शिमला (हि० प्र०) . . . प्रार्थी।

बनाम

आम जनता

उनवान मुकद्दमा.—दरखास्त जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 के अन्तर्गत।

इस कार्यालय में श्री प्रेम सिंह पुत्र श्री गुरबचन सिंह, निवासी वार्ड नं० 2, नगर पंचायत जुब्बल, तहसील जुब्बल, जिला शिमला (हि० प्र०) का प्रार्थना-पत्र अतिरिक्त जिला रजिस्ट्रार जन्म एवं मृत्यु शिमला, जिला शिमला के माध्यम से प्राप्त हुआ है जिसमें प्रार्थी ने निवेदन किया है कि प्रार्थी की पुत्री नवनीत धान्जल की जन्म तिथि 15-12-1987 है जिसका पंजीकरण नगर पंचायत जुब्बल के अभिलेख में दर्ज नहीं है, इसलिए प्रार्थी अब अपनी पुत्री का नाम व जन्म तिथि सम्बन्धित नगर पंचायत के रिकार्ड में दर्ज करवाना चाहता है।

अतः इस इशतहार के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी को भी उपर्युक्त प्रार्थी की पुत्री नवनीत धान्जल की जन्म तिथि के इन्द्राज नगर पंचायत जुब्बल में दर्ज करने बारे कोई भी उजर व एतराज हो तो वह दिनांक 25-03-2021 को या इससे पूर्व किसी भी कार्य दिवस को अदालत हजा में हाजिर होकर लिखित व मौखिक एतराज प्रस्तुत करें। यदि उक्त तारीख तक कोई भी उजर व एतराज प्रस्तुत न हुआ तो यह समझा जाएगा कि प्रार्थी की पुत्री की जन्म तिथि पंजीकरण हेतु किसी को कोई आपत्ति नहीं है तथा नगर पंचायत जुब्बल को जन्म तिथि दर्ज करने के आदेश पारित किए जावेंगे।

आज दिनांक 25-02-2021 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
(चन्द्र मोहन ठाकुर)
कार्यकारी दण्डाधिकारी,
जुब्बल, जिला शिमला (हि० प्र०)।

ब अदालत श्री विनय कुमार शर्मा, कार्यकारी दण्डाधिकारी चौपाल, जिला शिमला,
हिमाचल प्रदेश

श्री शेर सिंह पुत्र मोतीया राम, गांव मंधराड, डाकघर पुलवाहल, तहसील चौपाल, जिला शिमला,
हिमाचल प्रदेश प्रार्थी।

बनाम

आम जनता

प्रत्यार्थी।

विषय.—13(3) जन्म एवम् मृत्यु पंजीकरण अधिनियम, 1969 के अन्तर्गत जन्म पंजीकरण करने बारे।

प्रार्थी श्री शेर सिंह पुत्र मोतीया राम, गांव मंधराड, डाकघर पुलवाहल, तहसील चौपाल, जिला शिमला, हिमाचल प्रदेश ने अधोहस्ताक्षरी के न्यायालय में एक आवेदन-पत्र प्रस्तुत किया है कि उसका जन्म पंजीकरण ग्राम पंचायत के जन्म पंजीकरण रजिस्टर में दर्ज नहीं करवाया है, तथा प्रार्थी अब अपना पंजीकरण ग्राम पंचायत सरी के जन्म पंजीकरण रजिस्टर में दर्ज करवाना चाहता है। जो इस प्रकार है:—

क्रम संख्या	नाम	सम्बन्ध	जन्म तारीख
1.	शेर सिंह	स्वयं	01-07-1972

अतः आम जनता को बजरिया इश्तहार सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त जन्म पंजीकरण बारे कोई आपत्ति हो तो इस इश्तहार के प्रकाशन से 30 दिन के भीतर किसी भी कार्य दिवस पर प्रातः 10.00 बजे से साँय 5.00 बजे तक असालतन या वकालतन हाजिर अदालत आकर अपनी आपत्ति प्रस्तुत करें अन्यथा आवेदन-पत्र पर आवश्यक आदेश पारित करके सचिव, ग्राम पंचायत सरी को आगामी कार्यान्वयन हेतु भेज दिया जायेगा।

आज दिनांक 02-03-2021 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी किया गया।

मोहर।

हस्ताक्षरित/—
(विनय कुमार शर्मा)
कार्यकारी दण्डाधिकारी,
चौपाल, जिला शिमला (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी (नायब तहसीलार) हरोली, जिला ऊना (हि0 प्र0)

मनोज कुमार पुत्र राकेश कुमार, वासी वाथू, तहसील हरोली, जिला ऊना (हि0प्र0)

श्रीमती रेखा रानी पुत्री मंगल सिंह, वासी वसोली, तहसील व जिला ऊना (हि0प्र0)

बनाम

आम जनता

अधीन धारा 8(4) of Marriage Act, 1996 & Rule 4(2) of 2004.

मनोज कुमार पुत्र राकेश कुमार, वासी वाथू, तहसील हरोली, जिला ऊना (हि0प्र0) ने इस न्यायालय में निवेदन किया है कि उनकी शादी दिनांक 05-02-2017 को श्रीमती रेखा रानी पुत्री मंगल सिंह, वासी वसोली के साथ हुई है। लेकिन उनकी शादी ग्राम पंचायत अभिलेख में दर्ज न है और शादी तिथि रजिस्ट्रेशन अधिनियम, 1969 के तहत सम्बन्धित अभिलेख में दर्ज करने बारे प्रार्थना-पत्र प्रस्तुत किया है।

अतः सर्वसाधारण को इश्तहार/नोटिस मुन्नादी के माध्यम से सूचित किया जाता है कि यदि इस बारे किसी व्यक्ति को कोई उजर/एतराज हो तो वह दिनांक 10-03-2021 को प्रातः 10.00 बजे अधोहस्ताक्षरी के न्यायालय में उपस्थित होकर उजर/एतराज पेश कर सकता है।

यदि उपरोक्त वर्णित तिथि को किसी भी व्यक्ति का कोई उजर/एतराज इस न्यायालय में प्राप्त नहीं होता है तो इस न्यायालय द्वारा यह मान लिया जाएगा कि इस सम्बन्ध में किसी को कोई आपत्ति न है और शादी तिथि सम्बन्धित रिकार्ड में दर्ज करने बारे नियमानुसार आगामी कार्यवाही अमल में लाई जाकर आदेश पारित कर दिया जाएगा।

आज दिनांक 25-02-2021 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी (ना0 तहसील),
हरोली, जिला ऊना (हि0 प्र0)।

**ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता (द्वितीय वर्ग) हरोली,
जिला ऊना (हि0 प्र0)**

श्री सुभाष सिंह पुत्र वतना पुत्र गोन्दा, जाति वाहती, वासी रोड़ा, तहसील हरोली, जिला ऊना (हि0प्र0)
वादी।

बनाम

आम जनता

प्रतिवादीगण।

दरखास्त बमुराद दुरुस्ती नाम राजस्व अभिलेख महाल रोड़ा, तहसील हरोली, जिला ऊना, खेवट 357, 358, 360, 365 जमाबन्दी साल 2018-19 वाक्य महाल रोड़ा, तहसील हरोली, जिला ऊना।

श्री सुभाष सिंह पुत्र वतना पुत्र गोन्दा, जाति वाहती, वासी रोड़ा, तहसील हरोली, जिला ऊना (हि0 प्र0) ने इस न्यायालय में आवेदन-पत्र दुरुस्ती नाम प्रस्तुत किया है कि राजस्व रिकार्ड में प्रार्थी का नाम श्री सुभाष चन्द पुत्र वतना पुत्र गोन्दा गलत दर्ज किया गया है। अतः प्रार्थी का नाम श्री सुभाष चन्द पुत्र वतना पुत्र गोन्दा की बजाए श्री सुभाष सिंह पुत्र वतना पुत्र गोन्दा सही दर्ज किया जावे।

अतः इस इशतहार अखबार/मुश्री मुनादी के माध्यम से सर्वसाधारण को सूचित किया है कि यदि किसी व्यक्ति को नाम दुरुस्ती बारे कोई आपत्ति हो तो वह अपना उजर लिखित या मौखिक तौर पर इस न्यायालय में निर्धारित तारीख पेशी से पूर्व या तारीख पेशी दिनांक 22-03-2021 को प्रस्तुत कर सकता है। निर्धारित तारीख पेशी तक उजर/एतराज प्राप्त न होने की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती बारे आदेश पारित कर दिए जाएंगे। निर्धारित तारीख पेशी के उपरान्त कोई भी उजर काबिले समायत न होगा व न्यायालय द्वारा एकतरफा कार्यवाही अमल में लाई जाकर इस सन्दर्भ में फैसला सुना दिया जाएगा।

आज दिनांक 22-02-2021 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुआ।

मोहर।

हस्ताक्षरित/—
नायब तहसीलदार एवं सहायक समाहर्ता (द्वितीय वर्ग),
हरोली, जिला ऊना (हि0 प्र0)।

नाम परिवर्तन

मैं, दिव्या सुपुत्री श्री सुभाष चन्द, भूतपूर्व पेटी आफिसर (भरतीय नौ सेना), गांव खोरड़, डाकघर एवं तहसील गलोड़, जिला हमीरपुर (हि0प्र0) यह घोषणा करती हूं कि मेरा वास्तविक नाम दिव्या है जोकि मेरे पिता जी के नेवी सर्विस रिकार्ड में गलती से दिव्या कुमारी दर्ज है।

दिव्या सुपुत्री श्री सुभाष चन्द, गांव खोरड़,
डाकघर एवं तहसील गलोड़,
जिला हमीरपुर (हि0 प्र0)।

